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COMMITTEE ON INSULAR AFFAIRS,
Wednesday, February 10, 1904.

The committee met at 10.30 o'clock a. m., Hon. H. A. Cooper in the chair.

STATEMENT OF HON. WILLIAM H. TAFT, SECRETARY OF WAR.

The CHAIRMAN. We are here this morning for the purpose of hearing Secretary Taft. There has been a bill introduced to abolish slavery in the Philippine Archipelago and specifically to abrogate the treaty made by General Bates. It was under consideration by the committee yesterday, and the committee desire, Mr. Secretary, to hear your views upon the measure.

Secretary TAFT. There is no objection to passing this bill at all, except that in the Philippine acts slavery has already been abolished. Slavery is illegal by the criminal code now in effect in the Philippine Islands, and the legislative council of the Moro Province has passed an act, approved by the Commission and now in force, making slavery unlawful and providing a number of different punishments for various acts with reference either to the continuance of slavery and kidnaping. The law is here in our report as a Commission. I have discovered that the best way to keep anything from the public that pertains to the Philippine Islands is to put it in the report.

There are all the acts passed by the legislative council of the Moro Province and among them the act denouncing slavery and kidnaping. There is a provision in the Moro Province act of the Commission by which slaves may be taken from the persons claiming to own them by habeas corpus.

Now, with reference to disapproval of the Bates treaty. When General Wood came out to the Philippines, we had a number of conferences with respect to the Bates treaty, and we agreed that the thing to do was to get it out of the way, and I suggested to General Wood, as the governor of the province, that he prepare a report showing in how many respects the datos and the sultan had violated the terms of the agreement and the conditions which they were to perform in order that we might formally declare it at an end. That he has done in a report to me as the civil governor of the islands, and I have transmitted it to the Secretary of War, recommending that by Executive action, because it was a treaty entered into solely by the Executive, it be formally abrogated.

I do not think there is any objection to the passing of either of these sections, except that the first section would seem to be a work of supererogation in view of the present conditions. If you will abrogate the treaty it will relieve us from making a record which will formally

justify the Executive who made the treaty in withdrawing from it. Of course it was made necessarily subject to the approval of Congress. Congress took no action in respect to it after it was brought to its attention, and whether this would be said to be a temporary acquiescence in it or not is a question for you gentlemen to decide. If it was a temporary acquiescence, and if, therefore, there may be said to have been Congressional approval of the treaty, then it would be necessary to have the passage of this section to abrogate it. I do not think so. I think that it having been made by the Executive and Congress taking no action, the Executive would have the right to abrogate it.

Mr. PATTERSON. Has the Philippine Commission itself passed any law?

Secretary TAFT. Yes, sir. The Philippine act declares, as you know, that slavery shall be unlawful.

Mr. PATTERSON. That is in the Government bill which Congress passed last session?

Secretary TAFT. Yes, sir.

Mr. PATTERSON. I am speaking of the Commission.

Secretary TAFT. The Commission has taken no action as the legislative act of the islands, because slavery is declared to be unlawful under the Spanish rule, but the legislative power of the Moro Province given by the Commission has passed a special act which has been approved by the Commission denouncing slavery and denouncing kidnapping, and imposing very severe penalties for those offenses.

Mr. PATTERSON. Is it your construction of the Bates agreement that it recognized slavery and polygamy?

Secretary TAFT. I never myself looked into the history of the treaty, but I understood that the original treaty signed by General Bates and the Sultan of Sulu contained a recognition of slavery in the sense that it provided for its gradual extermination by the buying of the slaves, or something of the sort; that it was reported to the President, and that the President directed the general commanding to notify the Sultan that the treaty was approved with the excision of the article which referred to slavery and impliedly recognized its existence. That is my understanding.

Mr. PATTERSON. I think it was a letter from Secretary Root that you refer to, in which he said substantially that.

Secretary TAFT. That is all I recollect about it.

Mr. NEEDHAM. That letter was written by direction of the President?

Secretary TAFT. Yes, sir.

Mr. PATTERSON. The section you refer to in the treaty is that giving the slaves the right to purchase their freedom?

Secretary TAFT. Yes, sir.

Mr. PATTERSON. When you left the islands, what was your opinion in regard to the continuance of slavery?

Secretary TAFT. I have no doubt that slavery continues in part of the Moro Province, and that there is some slavery in some of the Christian Filipino provinces that lie near to the mountain tribes. This latter we are trying hard to eliminate. I had a report from a constabulary officer from the province of Isabela saying that it was not the general custom, but that it was not uncommon for hill tribe parents to bring their children into a Filipino village and to sell a child to a wealthy man in the village who would use him as a servant. That is

contrary to law, and we have directed prosecution in every case brought to our attention.

Mr. PATTERSON. Something like a month ago there appeared in the Washington Post a statement made by some officer from the Philippines—I forget his name—that in the Moro Province slavery not only existed, but was increasing.

Secretary TAFT. Of course, that is a guess.

Mr. PATTERSON. It seemed that he had just returned from the islands.

Secretary TAFT. General Wood is using every effort to stamp it out. That it will be stamped out to-morrow, or next day, or next year, I can not say. It is a social custom and those things are not easily stamped out. Datto Manday, in the province of Zamboanga, has directed his followers that slavery is unlawful and must be discontinued. Slavery as there conducted is a relation which may continue without it being known to the authorities, but laws have been passed, and we approved General Wood's action in the matter, although we were not quite certain that it was wise to be quite so drastic as he wished to be. However, we did approve the law that was passed with some slight modification.

Mr. PATTERSON. As I understand, there has been no law passed by the Commission and no military act whatever that forbids slavery.

Secretary TAFT. You do not understand it correctly at all. I say the Commission has approved an act by the legislative council of the Moro Province, where slavery prevails, condemning slavery in the most unmeasured terms.

Mr. PATTERSON. I understand it is condemned.

Secretary TAFT. It provides for the punishment.

Mr. PATTERSON. Is that provision of law being carried into effect?

Secretary TAFT. Yes, sir.

Mr. PATTERSON. Then, why does not slavery cease?

Secretary TAFT. Why does not adultery cease?

Mr. PATTERSON. I think there is a distinction between the two.

Mr. CRUMPACKER. The act of the Philippine Commission of June 1, 1903, creating a civil government for the Moro province in effect abrogated the Bates treaty and substituted a new government for it, if that had been recognized at all before. I notice that act provides for a legislative council for the Moro province and makes laws on certain subjects, and among others abolishing slavery, and I understand that the council has passed a very satisfactory law making slavery unlawful and providing for adequate penalty, and that the local law has been approved by the commission and is being enforced as much as it is practicable to enforce a law of the kind under existing conditions?

Secretary TAFT. Yes, sir.

Mr. CRUMPACKER. And that there is all the legislation that is required to provide for the eradication of slavery?

Secretary TAFT. I think so. There is no objection to piling it up, if you desire, but it seems to me that all the legislation is there which, if enforced, will accomplish the purpose of the committee.

You will observe that paragraph 1, in section 13, makes it the duty and puts it within the power of the legislative council to enact laws for the abolition of slavery and the suppression of slave hunting and slave trade.

There is, however, a distinct reference to the agreement among the powers and the duties of the legislative assembly.

To enact laws for the creation of local governments among the Moros and other non-Christian tribes, conforming as nearly as possible to the lawful customs of such peoples, and vesting in their local or tribe rulers as nearly as possible the same authority over their people as they now exercise, consistent with the act of Congress entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," and following as nearly as possible in the provisions of these laws any agreements heretofore made by the United States authorities with such local or tribe rulers concerning the power and privileges which under American sovereignty they are by such agreements to enjoy: *Provided*, That they have not by their conduct and the breach of the agreements forfeited such powers and privileges.

MR. CRUMPACKER. That was a reference to the Bates treaty?

Secretary TAFT. Yes, sir.

MR. CRUMPACKER. And that leaves in the local legislative council the discretion of determining how far the provisions of existing enactments might be, or ought to be, respected?

Secretary TAFT. Yes, sir.

MR. PATTERSON. Is it your opinion that the money is still being paid the *datos* under the Bates agreement?

Secretary TAFT. No, sir. I think there was due an allowance in October. We turned it over to General Wood, and I do not think he has paid it. That is my recollection. If you will refer to the report of the Commission, you will find a special report, as an appendix to my report as civil governor, from General Wood on the subject of the Bates agreement and a reference, I think, to the subject of slavery.

MR. PATTERSON. The officer who made the report to which I have heretofore referred said the Bates agreement was the cause of all the trouble and that as long as that agreement stood the Government was not in a position to do away with slavery; that was his idea.

Secretary TAFT. There is nothing in the Bates agreement that prevents us from doing away with slavery. There is something in the Bates agreement that prevents the passing of land laws and affecting the title to land and definitely fixing what that is, but there is nothing in the Bates agreement that prevents an interference with slavery.

MR. JONES. You said that General Wood was taking steps looking to the abrogation of the treaty?

Secretary TAFT. Yes, sir.

MR. JONES. Do you mean the whole treaty?

Secretary TAFT. Yes, sir; it is an obstacle, there is no doubt about it. It is an obstacle to our doing what ought to be done. The Bates treaty seems to have been regarded by the military officers there as a reason for standing off from the Moros, and if the Moros did not attack the United States troops to let them go on as they choose. The truth is, there has been anarchy in Jolo and the Sultan has not been able to maintain authority—maintain the authority which the Bates treaty assumed he had—he has been unable to maintain peace and order, and the only thing to do is to wipe the treaty out and notify the *datos* that they are to be held responsible.

MR. CRUMPACKER. You have no doubt that the Commission has the authority to rescind that authority?

Secretary TAFT. Certainly not with the authority of the Secretary of War acting for the President.

Mr. PATTERSON. Let me call your attention to one section of the treaty.

The rights and dignities of his highness the Sultan and his datus shall be fully respected; the Moros shall not be interfered with on account of their religion; all their religious customs shall be respected, and no one shall be persecuted on account of his religion.

Then in section 10 it provides that any slave may purchase his liberty at the market price. I have no doubt that those sections stand in the way?

Secretary TAFT. If section 10 was enforced, of course, it does interfere with the abolition of slavery because it recognizes it.

Mr. PATTERSON. And it would because it treats it as a part of their religion?

Secretary TAFT. I do not follow you in that. By the same reasoning murder would be approved, because a Mohammedan can go out and kill a man and pay \$100 and so satisfy the Mohammedan law.

Mr. PATTERSON. My construction of the treaty has been always that in so far as it could it protected the Moros in slavery.

The CHAIRMAN. But this treaty as approved by President McKinley expressly declared that the authorities here did not accept the clause relating to slavery.

Mr. PATTERSON. That was a letter from Secretary Root on behalf of the President, and he simply said what he was bound to say and what we are bound to say, that it could not be recognized in any part of the United States under the thirteenth amendment; but this treaty, as the Secretary said, has been used in a degree by the military authorities in the Archipelago.

Do you think the Sultan has acted in a way that it would be proper to abrogate the treaty altogether?

Secretary TAFT. I do.

Mr. PATTERSON. You do think there is equitable reason why it should be abrogated?

Secretary TAFT. Yes, sir; he is a gambler and a tax collector; he is nothing else. He has no care of his people. He punishes no crime unless it happens to be a charge of crime of a rich man, out of whom he can get a good deal of money.

Mr. PATTERSON. Do you think that Congress passing this bill we have drawn—not in this form necessarily, but substantially, abolishing slavery and abrogating this treaty—would have a good effect in eradicating slavery from the islands?

Secretary TAFT. As the repetition of a declaration?

Mr. PATTERSON. There has been no declaration but the treaty itself?

Secretary TAFT. No, sir. But the first section, is it anything but what was in the Philippine act?

Mr. PATTERSON. Except so far as it relates to Porto Rico.

Mr. OLMSTED. In the act of July 1, 1902, an act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, we did enact "That neither slavery, nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist in the islands." In view of that enactment, with a further enactment in the language of this first section, which is simply a change of the words, namely, "That from and

after the passage of this act there shall be neither slavery nor involuntary servitude in the Philippine Archipelago," would this act, if we were to pass it now, have any more effect in abolishing slavery than the act we have already enacted?

Secretary TAFT. Except by reiteration.

Mr. PATTERSON. Do you or do you not think that the second section of this bill if enacted to law would help the authorities there to eradicate slavery in the islands?

Secretary TAFT. It would relieve altogether the necessity for Executive action.

The CHAIRMAN. Do you think it would precipitate hostilities?

Secretary TAFT. No, sir. So far as the Moro question is concerned, the military question is not at all difficult. The Moros are not anywhere nearly as formidable in warfare as the Christian Filipinos. They do not use the guerrilla warfare at all. They get into a fort and they shoot over the sides of the fort, and you drop a few shells into the fort and the battle is over. Two regiments in Jolo could command the islands without the slightest difficulty, and so it is in all parts of the Moro country. Of course, it is dangerous to get within reaching distance of a Moro, for he has lightning quickness with his kris, but as a military problem there is no difficulty at all in keeping them in good order.

The abrogation of the treaty I do not think will lead to any trouble at all. I am not prepared to say that the Congressional abrogation of it would not be a good thing, that it would not relieve the situation so far as the Commission is concerned. There would then be no necessity for justifying withdrawal from the treaty, because of course the treaty was made subject to Congressional approval.

The CHAIRMAN. Is it your understanding that General Wood would like the abrogation of the treaty?

Secretary TAFT. Yes, sir; he is very anxious to have it. We have agreed with him that we would abrogate it just as soon as the record was made up, but having the contracting power or, so to speak, representing the contracting power, we did not want to take action without a record. Congress can do that without a record.

Mr. OLMSTED. You propose doing it upon a record independent of any act by Congress?

Secretary TAFT. Yes, sir.

Mr. ROBINSON. When will that be accomplished?

Secretary TAFT. Within the next two or three months. I have not had time to bring it to the attention of the President or to examine with care and make a statement of the grounds on which the abrogation would be had.

The CHAIRMAN. Do you think that abrogation by Congress would have a more salutary effect, a more powerful effect, upon the Moros than would abrogation by the Philippine government?

Secretary TAFT. I think it might.

Mr. KINKAID. Is it your judgment that the abrogation by Congress of the treaty would in any manner change the legal status as to slavery?

Secretary TAFT. No, sir; not the slightest.

Mr. WARNOCK. It would simply relieve a somewhat embarrassing situation?

Secretary TAFT. Yes, sir.

Mr. OLMSTED. But not so much with the slavery as the other matters?

Secretary TAFT. Yes, sir; we are not concerned at all in regard to slavery.

The CHAIRMAN. What other matters?

Secretary TAFT. The payment of the subsidy and the question of the authority of the Sultan over the dattos, and of the dattos over their people, and of necessarily leaving to the Sultan and to the dattos the administration of justice as between their followers.

Mr. PATTERSON. There are practically two sovereignties there now?

Secretary TAFT. Yes, sir; the sovereignty of the United States which the sultans seem to recognize, but there is a sort of a government inside of that carried on, which we ought not to recognize at all, or which we ought to control.

Mr. ROBINSON. You read a little while ago from an act of the Philippine Commission which rather seemed to confirm the rights secured by the Bates treaty?

Secretary TAFT. Yes, sir; they have not been abrogated.

Mr. ROBINSON. When was that act passed?

Secretary TAFT. On June 1, 1903.

Mr. ROBINSON. Is there any danger of the Philippine Commission taking further steps to confirm or recognize that agreement?

Secretary TAFT. Not at all. It was understood when I left the Philippines that the treaty should be abrogated by the Executive. I am not quite sure whether the recommendation comes in the report to the civil governor or to the Secretary of War, but in either instance it is an appeal to the Executive.

I must apologize to the committee for our delay in not submitting the report before Congress met. It is now brought down to the 23d of December, but Governor Wright was ill and Judge Ide was ill, and that necessitated the delay, and so it was thought better to wait until I could come and bring the report, which I did.

Mr. WILLIAMS. Do I understand your conclusion with reference to the first section, that as a suggestion from Congress it could do no harm and might be of some benefit?

Secretary TAFT. It is a mere repetition of a suggestion contained in the Philippine act, and the question of reiteration is a question of taste.

Mr. WILLIAMS. It would show that Congress itself was alive to the situation?

Secretary TAFT. Yes, sir.

The CHAIRMAN. Might it not leave opportunity for someone to say to people not well informed on the subject that Congress had hitherto neglected its duty?

Secretary TAFT. I do not know.

Mr. KINKAID. Do you not regard it as a question of the exercise of authority which already exists in the governing authorities in the islands, rather than a necessity for any more law, that slavery be abolished?

Secretary TAFT. Slavery is now abolished so far as law and the declaration of law can abolish it.

Mr. KINKAID. And it is a mere matter of enforcement of the law?

Secretary TAFT. Yes, sir; it is not only abolished by the Constitution, but it is abolished by Congress and the legislation of the legislative council with the approval of the Commission.

Mr. KINKAID. As an experienced jurist and as an experienced executive afterwards, is not a mere enactment of law when it is not necessary or when it would supplement law already existing idle superfluity?

Secretary TAFT. I am not a legislator of great experience, but I think once is enough for legislation.

Mr. OLMSTED. And it would not strengthen it any if we passed the same law year after year for forty years.

Mr. JONES. All you have said applies to the first section of the bill?

Secretary TAFT. Yes, sir.

Mr. JONES. You do think it would be well enough for Congress to take the initiative as to the second section?

Secretary TAFT. Yes, sir; I do. Certainly there is no objection to it, and it would clear away some doubt possibly arising from the fact that Congress has not already acted on the matter.

Mr. JONES. Then you would recommend legislation of that sort?

Secretary TAFT. Yes, sir.

Mr. KINKAID. As to the treaty, is there any meaning to imply that it refers to slavery?

Secretary TAFT. No; I do not think it does.

Mr. JONES. You would abrogate the whole treaty?

Secretary TAFT. Yes, sir.

Mr. OLMSTED. But, as I understand the treaty, as approved by the President, it never did authorize slavery?

Secretary TAFT. No, sir.

Mr. CRUMPACKER. In giving that opinion, you considered the fact that while it is termed a treaty, it could not in any proper sense be a treaty?

Secretary TAFT. Yes, sir.

Mr. CRUMPACKER. It is simply an Executive order?

Secretary TAFT. It is an arrangement for a *modus vivendi*.

Mr. CRUMPACKER. And Congress has never approved it; is not in any sense responsible for it. It was an act on the part of the Executive, absolutely and completely under the control of the Executive. Have you considered the policy of Congress in undertaking to interfere and regulate by legislation matters of that kind that are particularly and solely Executive functions?

Secretary TAFT. In that matter, my recollection is that the form of the treaty was subject to the approval of Congress.

Mr. CRUMPACKER. Yes, sir; but Congress did not approve it and the President did. The Executive regarded the approval of Congress as unnecessary because the Executive approved it, and then the treaty was respected.

Secretary TAFT. My impression is that the Executive would have regarded the treaty as binding until Congress disapproved it, and that would make it proper, therefore, if the matter were brought to the attention of Congress to approve or disapprove.

Mr. PATTERSON. Is the money paid to the datos out of the Philippine treasury?

Secretary TAFT. Yes, sir; it is a regular quarterly payment.

Mr. PATTERSON. If I should eliminate the first section of the bill and change the title so as to read, "A bill to abrogate the treaty of August 20, 1899, made and entered into between John C. Bates, brigadier-general, United States Volunteers, and the Sultan of Sulu

Archipelago," and then follow with the enactment clause, eliminating the first section, have you any criticism of the language?

Secretary TAFT. I should think the word "disapproved" might raise a question. I think it is a subject for argument, whether the treaty when made by General Bates was not a useful arrangement, considering the conditions that existed.

The CHAIRMAN. Simply, then, use the word "abrogated?"

Secretary TAFT. Yes, sir.

Mr. PATTERSON. Simply have the bill read:

That from and after the passage of this act the so-called treaty or agreement made and entered into between John C. Bates, brigadier-general of United States Volunteers, acting for the Government, and the Sultan of Sulu Archipelago and the datos whose names appear as parties to said agreement or treaty dated August twentieth, eighteen hundred and ninety-nine, be, and the same is hereby, abrogated and disaffirmed and declared void and of no effect.

Secretary TAFT. In order to make it a little clearer I would suggest that there be a recital that the agreement was made subject to abrogation by Congress, as a justification for your action, and also you might put in a provision legalizing the payment of money heretofore paid under the treaty; that is, that this act shall not effect the payment of money heretofore made?

Mr. PATTERSON. I suppose not.

Secretary TAFT. I presume that the disaffirmance of the treaty would not make such payment illegal while the treaty was in force, but it would remove any doubt on the part of the Auditor in settling accounts of that sort.

The CHAIRMAN. We have not yet received the report; it is being indexed. Can you give us, in a general way, what the Commission has suggested as to a revision of the land laws?

Secretary TAFT. We prepared, in accordance with the direction of the Philippine act, rules and regulations for the disposition of the public lands, and that report we sent to the United States in September or October. Those regulations go into effect and become law unless Congress shall amend them.

The CHAIRMAN. At this session?

Secretary TAFT. After the close of this session, that is my understanding, and it was in compliance with that direction that we prepared the regulations.

Mr. CRUMPACKER. Then legislation is not necessary?

Secretary TAFT. No, sir.

Mr. CRUMPACKER. But suppose that a joint resolution should be adopted approving the regulations?

Secretary TAFT. It would greatly help us. What I mean is that it would bring the lands into the market right away.

Mr. CRUMPACKER. And put the regulations into operation without delay?

Secretary TAFT. Yes, sir.

Mr. OLMSTED. And it would remove any possible cloud from the title, so far as legislation goes?

Secretary TAFT. Yes, sir.

The CHAIRMAN. Mr. Lacey has introduced a bill "To approve the rules and regulations of the Philippine Commission, known as 'the public land act.'" The committee has been waiting until we could see your report.

Secretary TAFT. I want to say about the land act that the most difficult part of the land act to draw was that which defined how far the law should go in validating the inchoate Spanish land claims, and in framing that we have been exceedingly liberal. Possibly we have gone beyond what your construction of the law would justify. We have practically put in as to one class of claims a statute of limitations; I think it is ten years. That was because there are a good many farmers and planters who have lived on their property for a long time but who were dismayed by the delays in the Spanish land office and who never completed their titles, and yet they believe themselves to be the owners just as much as if they had fully recorded titles. We have thought that it was very wise in such cases to quiet the title. State legislation justifies it. For instance, in Tennessee, my recollection is that there were conflicting land claims to such an extent that a man could put a claim on the statehouse in Nashville and bring a suit on it, until finally it got into such confusion that they passed a seven years' law. This is a little longer, but General Wright, who is from Tennessee and who was familiar with the difficulties of that state of affairs, was very anxious to reduce the limitation as much as possible and we brought it down to ten years.

Mr. CRUMPACKER. Is that a general limitation?

Secretary TAFT. No; it only applies to the following-described persons or their legal successors in right, occupying public lands in the Philippine Islands, or claiming to own any such lands, or an interest therein, but whose titles to such lands have not been perfected, may apply to the court of land registration of the Philippine Islands for confirmation of their claims and the issuance of a certificate of title therefor, to wit:

1. All persons who prior to the transfer of sovereignty of Spain to the United States had fulfilled all the conditions required by the Spanish laws and royal decrees of the Kingdom of Spain for the purchase of public lands, including the payment of the purchase price, but who failed to secure formal conveyance of title.

They had paid the money, but it was just through the negligence of the officials that they did not get their titles.

2. All persons who prior to the transfer of sovereignty from Spain to the United States, having applied for the purchase of public lands, and having secured a survey, auction, and an award or a right to an award of such lands, did not receive title therefor through no default upon their part.

That is, where they had applied but had not gotten to the point where they were called upon to pay.

3. All persons who prior to the transfer of sovereignty from Spain to the United States, having applied for the purchase of public lands, and having secured a survey and award of same, did not, through negligence upon their part, comply with the conditions of full or any payment therefor, but who after such survey and award shall have occupied the land adversely, except as prevented by war or force majeure, until the taking effect of this act.

4. All persons who were entitled to apply and did apply for adjustment or composition of title to lands against the Government under the Spanish laws and royal decrees in force prior to the royal decree of February 13, 1894, but who failed to receive title therefor through no default upon their part.

5. All persons who were entitled to a gratuitous title to public lands by "possessory proceedings" under the provisions of articles 19 and 20 of the royal decree of the King of Spain, issued February 13, 1894, and who, having complied with all the conditions therein required, failed to receive title therefor through no default upon their part.

Now, I am sure there will be no objection to those clauses, because they were drawn with great care and submitted to the chief justice and the solicitor-general, the best lawyers in the Philippines, who are very familiar with the land laws.

6. All persons who by themselves or their predecessors in interest have been in the open, continuous, exclusive, and notorious possession and occupation of agricultural public lands, as defined by said act of Congress of July 1, 1902, under a bona fide claim of ownership, except as against the Government, for a period of ten years next preceding the taking effect of this act, except when prevented by war or force majeure, shall be conclusively presumed to have performed all the conditions essential to a Government grant and to have received the same, and shall be entitled to a certificate of title to such land under the provisions of this chapter.

That practically makes a ten years' limitation.

The CHAIRMAN. Adverse possession for ten years?

Secretary TAFT. Yes, sir.

The CHAIRMAN. One of the most interesting and important provisions in the civil government act of July 1, 1902, was that relating to the friar land purchase. Will you please tell the committee what the situation is concerning that subject, and if there is anything we are called upon to do?

Secretary TAFT. I think not. The machinery was all provided in the Philippine act. We have simply followed out the provisions of that act. We went to Rome and procured the consent of the Pope to the sale of the lands. He sent a delegate to the islands. In Rome we offered to submit the matter to arbitration on the condition that the friars should leave the islands, but that condition was not accepted as a term of contract. Then we went to the islands, the delegate coming in the course of three or four months, and we began negotiations. The friar lands were not in the name of the friar orders, with the exception of one estate. They had been conveyed to promoting companies for the purpose of sale or management, and so it was when the delegate reached there we found that the owners of the lands rather objected to his taking part in the negotiations, but that was arranged and we took evidence as to the value of the lands, and in the course of a year or fourteen months we reached an agreement.

That agreement was on the basis of a total cost of \$7,543,000, but there was one estate lying along the Pasig which was very poor in an agricultural way, but it was useful for railroad and warehouse purposes. The Augustinians thought they could sell at a better price than we offered them, and they did sell to the railroad a large part—the valuable part of it—and we simply left that estate out. It was an estate of about 10,000 acres. With that exception and some 2,500 acres on the hillsides in Laguna, we purchased the whole 420,000 acres of agricultural property. The contracts were signed before I left the island. The permission given by Congress to issue bonds was pursued and the bonds were sold at a very low rate of interest—4 per cent on a ten-years basis. I understand they sold for about 3.1 per cent a

year. That was occasioned by the exemption provided in the law from State, county, and municipal taxation, largely.

The money is now there to be distributed as soon as the surveys are completed and the titles shown to be perfect. I think it is a satisfactory solution to everyone. Naturally, the other side thought the price was low; they thought the lands were worth between \$13,000,000 and \$14,000,000, but we did not think they were worth so much. The first offer we made, with the approval of the President, the Secretary of War, and the Commission, was \$6,043,000, and the offer was increased once by \$1,500,000, and the contract was closed on that basis. Of course, the total of money to be paid is less by reason of the fact of leaving out the purchase of the estate to which I have referred.

It will impose on the government of the islands for ten years a very heavy burden of disposing of the lands to the tenants on terms that will be satisfactory to them and it will necessitate the organization of either a bureau or a division of a bureau that shall have all the work it can do, because it is quite likely there will be disputes among the tenants as to what their tenancies are and it is quite possible that we shall have litigation with many of the tenants as to our ownership of the lands, though I think that is not as likely to be as great as I thought it was before I left the islands. I have petitions from a good many tenants asking that the sale be closed and saying that there will be no difficulty about their making longer payments if they could secure the fee to the land.

Mr. OLMSTED. Is there any question of claims by the tenants under the proposition you have just read under which they could claim title by reason of possession?

Secretary TAFT. Hardly that, because this act was passed in 1892 and the failure to pay rents did not begin until 1896.

Mr. CRUMPACKER. I assume that your policy will be quite liberal and magnanimous with tenants?

Secretary TAFT. Yes, sir.

Mr. CRUMPACKER. In order to secure the fidelity and friendship of the people?

Secretary TAFT. Yes, sir; there is no dispute. It is quite possible, General Wright thinks and General Smith thinks—I am not so certain myself—it is quite possible that we will lose \$1,500,000 or \$2,000,000 in the transfer.

Mr. CRUMPACKER. When we gave you the authority to make the negotiations it was my suggestion that you would lose probably half of the money.

Secretary TAFT. It is possible, but the exclusion of the problem from the politics of the islands is worth all that money.

Mr. WILLIAMS. How did you ascertain the amount?

Secretary TAFT. We sent what they call a professional surveyor in the habit of appraising agricultural land to everyone of the estates but two; those two estates were in far distant provinces, one in Isabela, and the other in Mindoro; but to the valuable estates near Manila and into every estate except those two, and we had a survey and a classification of the lands. Then we called this witness before the regularly organized commission consisting of the delegate, the four representatives of the lands, and myself.

The CHAIRMAN. The papal delegate?

Secretary TAFT. Yes, sir; and that evidence is transmitted in my annual report which is somewhere here—I do not know just where.

Mr. WILLIAMS. Does the report furnish a general description of the lands—whether timber, in cultivation, etc.?

Secretary TAFT. Yes, sir; the survey do s. We had surveys of all the lands, divided into classifications of first-class rice lands, second-class rice lands, third-class rice lands, timber lands, wild lands, and town lots.

Mr. OLMSTED. If it is a proper question, to what extent, if at all, is the United States bound legally or morally to pay those bonds of the Philippines issued for the purchase of those lands?

Secretary TAFT. Not at all; except that Congress authorized the issue. I suppose that investors have assumed that that fact would lead Congress to assume the obligation of them if the Government ever became bankrupt. I only know that banking houses are entirely willing to take the bonds without a guarantee by the Government, and the rate at which the bonds sold is an indication that the shadow of the United States in the background is very valuable.

The CHAIRMAN. Have you any reason to believe that the Government of the United States will ever be called upon to pay these bonds?

Secretary TAFT. No, sir.

The CHAIRMAN. There is not, in your judgment, any such reason?

Secretary TAFT. No, sir.

Mr. CRUMPACKER. In regard to the sale of the certificates for the installation of the new currency system, I notice that which was most gratifying to me, that those certificates running a year were sold at a rate of interest—

Secretary TAFT. Less than $1\frac{1}{2}$ per cent.

Mr. CRUMPACKER. One and three-eighths per cent, I think.

Secretary TAFT. And the second set at about $1\frac{5}{8}$ per cent.

Mr. CRUMPACKER. And the money that was received—the proceeds from the sale—was deposited in the banks in this country at $3\frac{1}{2}$ per cent on daily balances.

The CHAIRMAN. The Government makes money on its own debt.

Secretary TAFT. I do not understand myself how they came to do that, except that the Secretary of the Treasury authorized the use of those certificates for purposes which national bankers were very anxious to use them for at that particular time.

Mr. CRUMPACKER. I presume that is the reason.

Secretary TAFT. And, as a consequence, they took them with great avidity. When it came to selling our bonds, which were just as good security, we had to pay 3.1 per cent.

Mr. MADDOX. How does the new currency system work in the Philippines?

Secretary TAFT. It is operating, but we have this difficulty about it which we hope we can overcome by legislation at the proper time. The Gresham law that a cheaper currency will drive out a better one we encountered there. The Mexican dollar is worth 10 cents less than the Philippine dollar. I do not know that I state it exactly, but for purposes of illustration it is sufficient. The great trade of the Philippines is the export trade in hemp. As long as the people do not know the difference between the Philippine dollar and the Mexican dollar the English exporters go down in the country and buy hemp and do

not bother themselves with taking the Philippine dollar; they take the Mexican dollar. Of course, so far as the retail business in Manila is concerned, they have the Philippine dollar, but the Mexican dollar will be used as long as the people who sell products or labor do not understand the difference. It is proposed, I think the Commission has already enacted, though I have not seen it—I judge so from the cable—a law forbidding the importation of any more Mexicans into the country.

The tremendous purchase of rice, which, unfortunately, we had to make, due to the bad agricultural conditions, worked one good at any rate, and that was that it drained the islands of Mexicans. The rice came from Saigon, a French settlement across the China Sea. The medium was Mexican, and as a consequence there must have gone out of the islands at least fifteen millions of Mexican dollars. Of course that aided us in introducing the Philippine dollar. Now, by the prevention of importation of Mexicans, taxing its importation and possibly taxing its use and circulation, we can make it so costly for those gentlemen who wish to buy cheap with Mexicans and sell dear in gold that we may eliminate the Mexican dollar altogether from circulation, and if we do that then the problem is settled; but it will take some years, I suppose, before all the Mexicans can be eliminated.

Thereupon the committee adjourned.

COMMITTEE ON INSULAR AFFAIRS,
Monday, March 14, 1904.

The committee met at 10.30 o'clock a. m., Hon. Henry A. Cooper in the chair.

The CHAIRMAN. I will read what Secretary Taft cabled to Governor Wright, by order of the President, on March 2, 1904:

MARCH 2, 1904.

WRIGHT, *Manila*:

By order of the President you are directed to notify Sultan of Sulu and the datos who signed the so-called Bates treaty of August 20, 1899, which was a modus vivendi and mere executive agreement that in view of the failure on the part of the Sultan and the signing datos to discharge the duties and fulfill the conditions imposed upon them by said agreement they have forfeited all right to the annuities therein stipulated to be paid them and to all other considerations moving to them under the agreement; that the treaty is abrogated and held for naught, and that as residents of the Moro Province in the Philippine Archipelago they are subject to the laws enacted therein under the sovereignty of the United States. Communicate this through Leonard Wood, governor of the province of Moro, and advise me of his acknowledgment of receipt and notification to the parties.

Referring to telegram from this office of the 30th of January, if action has been taken under the same it is approved and should be immediately communicated to the Sultan of Sulu and the other parties as indicated above. The disturbances in the island of Jolo make necessary speedier action than was contemplated in the above dispatch.

TAFT.

Here is the telegram which Secretary Root sent to Governor Wright on January 30, 1904:

JANUARY 30, 1904.

WRIGHT, *Manila*:

Recommendation Philippine Commission that Bates agreement with Moros be declared no longer in force, upon grounds referred to in report of the civil governor, is approved in principle. A statute declaring and containing the legislation necessary in consequence of this abrogation, and having recitals carefully drawn, should be prepared and passed to third reading by Commission and then forwarded to the Secretary of War for his approval in advance of its enactment.

ROOT.

STATEMENT OF HON. WILLIAM H. TAFT, SECRETARY OF WAR.

The CHAIRMAN. Mr. Secretary, I wish briefly to ask you about the abrogation of the Bates treaty. I have submitted to the committee the transcript of two telegrams which were given me at the War Department. One, which you signed, is dated March 2, and the other, by Secretary Root, is dated January 30, last.

Secretary TAFT. Yes, sir. The disturbances in the island of Jolo had become so frequent that after talking with the President I concluded that we ought to take decided action. Without that action subsidies would be due, and the evidence contained in our report shows quite conclusively that the Sultan and all the datos were either engaged in the disturbances which have taken place there or failed to suppress

them, as was their duty, and that they violated the terms of the agreement of the *modus vivendi*, and therefore it seemed wise to act at once. As I have already said, the action of Congress might have been taken with less trouble concerning the facts than we were obliged to take, because we had to act on the fault of the contracting parties, whereas Congress had the power absolutely in its discretion, without reference to what had theretofore happened, to revoke the treaty, but I concluded that it was better to be prompt in the matter and the President agreed with me, so I took that action.

The CHAIRMAN. That action had already been recommended by General Wood?

Secretary TAFT. Yes, sir. He had recommended it for a long time. The truth is that my predecessor, Secretary Root, took the action which the telegram indicated, at my suggestion, just before I came into office.

The CHAIRMAN. That was the 30th of January?

Secretary TAFT. Yes, sir; but that invited action by the Commission, subject to approval by the Secretary. Whether the action was taken or not I do not know. I assume it was, but it was so delayed in coming by mail that I was not willing to wait until we could receive evidence of the action of the Commission, but preferred to assume that that action was, as we had agreed it would be before I left, and just confirmed that action by cable.

Mr. ROBINSON. Do you regard the authority as ample to abrogate this treaty in the manner it was done without Congressional action?

Secretary TAFT. Yes, sir; I do, on the conditions which now exist; but I hope I have made myself clear that I think Congressional action might be taken without respect to the facts; but we could only act upon an agreement of that sort upon a statement which satisfied us that the terms imposed in it had not been complied with.

Mr. CRUMPACKER. You have no doubt that the history of the treaty is such as to justify you fully in abrogating the treaty?

Secretary TAFT. Not at all.

Mr. CRUMPACKER. And acting upon the facts you had in your possession you have absolutely abrogated the treaty?

Secretary TAFT. Yes, sir.

The CHAIRMAN. Strictly speaking, that is not a treaty at all?

Secretary TAFT. No; it is an executive agreement. I termed it in the telegram a *modus vivendi*. I can refer the committee to the evidence contained in this report [indicating]. This is a report which was gathered together for me at the Department, and I will leave it with the committee.

Mr. PATTERSON. That was an exhibit to the Commission's report?

Secretary TAFT. Yes, sir.

Mr. PATTERSON. It was not embraced in the report at the time it was printed?

Secretary TAFT. Not at the time it was printed.

I ought to add, possibly, that we had a telegram to-day from General Wade saying that he had received a telegram from General Wood announcing that the Moros in the Catabato Province, owing to the announcement of the antislavery law, had sent out an armed force, which had been met and had been defeated. I confess I am disappointed, because I supposed that the Moros of the Rio Grande del Mindanao lying east and north of Catabato were in a condition where that sort of thing was not possible, but the announcement to-day shows it is.

There was no loss of Americans, but a considerable loss among the Moros and the capture of a number of what they call lantakas—small cannon that they use in the forts.

The CHAIRMAN. That originated because of the promulgation of the antislavery proclamation?

Secretary TAFT. Yes, sir; so the dispatch states.

The CHAIRMAN. That would indicate, would it not, that they proposed to fight to retain slavery?

Secretary TAFT. Yes, sir; at least some part of them. The Moros are not united, so it does not do to infer from what one tribe will do what another will do.

This [indicating] Exhibit T, on page 489 of the report of the Commission, contains the report of General Wood as to the abrogation of the Bates treaty, and it contains a copy of what has transpired at Jolo.

Mr. PATTERSON. Since you were before the committee, I have introduced, on February 10, the bill, with the first section omitted, which is a bill simply to abrogate the treaty entered into between General Bates and the Sultan on the 20th of August, 1899. As I understand your testimony given before, you stated to the committee that you thought Congressional action on this subject was, if not necessary, at least a matter about which Congress could very properly legislate, and that you gave it as your opinion that the situation there could be better controlled by legislation by Congress than by any action on the part of the Commission, and suggested that this bill should be amended to cover the Bates treaty alone, taking the position that the question of slavery was covered by the Constitution and the government Philippine bill which we passed last term.

Secretary TAFT. That is correct, I think.

Mr. PATTERSON. Do you still adhere to your opinion, since you have issued the executive order, that it would be wise in Congress now to pass this bill referring only to the treaty?

Secretary TAFT. It certainly will confirm our action, and it will certainly take from our action any question of rightfulness.

Mr. PATTERSON. As the fact was, this treaty or agreement was forwarded to Congress with a statement that it was subject to the approval or disapproval of Congress?

Secretary TAFT. Yes, sir.

Mr. PATTERSON. Congress has neither approved nor disapproved; and, as I further understand, legislation has always been had in the Philippine Islands with reference to what is called the Bates agreement. Is that statement correct?

Secretary TAFT. Yes, sir.

Mr. PATTERSON. And that the authorities there have gone upon the idea, as I understand, that so long as Congress took no affirmative action in regard to this treaty, it either could not do so or it was not advisable to do so, and all legislation has been with reference to that agreement?

Secretary TAFT. All legislation with reference to the Moros has assumed the existence of the Bates treaty, because every appropriation bill which has been passed has appropriated the money due under the Bates treaty, thus recognizing the subsidies. I think I read in the Moro province act when I was here before a general reference to the existence of treaties, not specifying the Bates treaty, which could however, only have reference to the Bates treaty.

Mr. PATTERSON. Without referring to that now, the statement by the Commissioners in the islands and wherever they went referred to the Bates agreement as a living agreement?

Secretary TAFT. Yes, sir.

Mr. PATTERSON. As I understand you to say this morning your action as an executive has been based solely upon the fact that the Moros themselves have violated the terms of this treaty?

Secretary TAFT. Yes, sir.

Mr. PATTERSON. And that you have justified your telegram upon that alone?

Secretary TAFT. Yes, sir.

Mr. PATTERSON. Whereas you say that Congress, irrespective of whether they have abrogated the treaty, could properly pass a law abrogating the treaty upon the moral question involved?

Secretary TAFT. What moral question?

Mr. PATTERSON. The question of protecting polygamy and the payment of subsidies.

Secretary TAFT. I do not admit that the Bates agreement recognizes polygamy.

Mr. PATTERSON. Perhaps I am unfortunate in my statement.

Secretary TAFT. I think you are. If you go back to the Bates treaty, I do not admit at all that the Bates treaty recognizes polygamy or slavery.

Mr. PATTERSON. I think there is a difference of opinion; I think it does.

Secretary TAFT. Not necessarily.

Mr. PATTERSON. The question I was arriving at was this: There are other matters in the treaty except the question of slavery?

Secretary TAFT. There is nothing in the treaty about slavery.

Mr. PATTERSON. Yes, there is.

Secretary TAFT. No; excuse me.

Mr. ROBINSON. There is article 10.

Secretary TAFT. Article 10 is no part of the treaty.

Mr. PATTERSON. Why?

Secretary TAFT. Because it was eliminated by the only person who could consent to it.

Mr. PATTERSON. Not in terms?

Secretary TAFT. Yes, sir.

Mr. LANNING. In express terms?

Secretary TAFT. Yes, sir; by President McKinley.

Mr. PATTERSON. But that would have been done anyhow by the Constitution?

Secretary TAFT. But it was done by the President. It was also eliminated from the treaty which was presented to the President for his approval.

Mr. WILLIAMS. Did the other parties know that?

Secretary TAFT. That was communicated to them.

Mr. PATTERSON. That rather takes me off of the line which I will not pursue very far. Slavery has existed there from that time to now without interference on the part, practically, of the United States Government?

Secretary TAFT. I would not say that. I have been over frequently just what has happened. Whenever slaves have presented themselves for freedom they were freed. They have not gone to war on the sub-

ject of slavery, if that is what you mean, and slavery has not been destroyed by force of arms of the United States.

Mr. PATTERSON. Secretary Root says in his report here that he thought slavery was still existing, and that is the report of the Commission, that the slave trade has been carried on.

Secretary TAFT. Not with the consent of the United States. Slave trade has been suppressed just as far as the soldiers were able to suppress it.

Mr. PATTERSON. But with or without the consent of the United States it has been going on.

The CHAIRMAN. Mr. Secretary, please indicate on the map the territory to which the Bates agreement or *modus vivendi* applies.

Mr. PATTERSON. I want to ask just one more question. This treaty protected the Sultan in certain rights to territory, as I understand it; that is, within certain limits his jurisdiction was to be practically supreme?

Secretary TAFT. If you will read the treaty it preserves those rights which he had. Now, the question of what rights he had was left open to be determined.

Mr. PATTERSON. Whatever rights he claimed?

Secretary TAFT. Not whatever rights he claimed, because he claimed a great deal that he did not have.

Mr. PATTERSON. But whatever rights he had he was protected in?

Secretary TAFT. Whatever property rights he had he was protected in.

Mr. PATTERSON. And the pearl fisheries were also mentioned in the agreement?

Secretary TAFT. Yes, sir; just what the limit of his rights over the pearl fisheries was, I am unable to say. They are a constant source of dispute between him and the *datos* and between the citizens of the islands and the Sultan. The Sultan got all he could out of it.

Mr. PATTERSON. I will ask you this question without regard to the appropriateness of any Congressional legislation. Do you think any question could arise on this telegram you sent abrogating this treaty, so far as the pearl fisheries or the rights of the Sultan are concerned, that he might have held or claim to hold under the Spanish Government?

Secretary TAFT. I think not. I think we should recognize the same rights whether the treaty was enforced or not, if he had them. You will find a law among the laws of the Commission, passed at the suggestion of Secretary Root, about a year and a half ago, in which all grants of the Sultan made without the authority of either the Crown of Spain or the United States Government were declared to be void. So his rights remain just as they were, whatever they may prove to be, unaffected by the treaty, because the treaty itself never guaranteed to him anything but the rights which he had, leaving for future decision what those rights were. I am speaking now of property rights.

Mr. PATTERSON. By Congressional legislation would not the situation there in the Moro Province be clear to this extent; that is, the military authorities would have the approval of Congress to take possession of those islands as strictly American territory and treat them as such?

Secretary TAFT. I am not prepared to say that the action of Congress is not more authority than the action of the Executive, because, of course, Congress has control of all the property of the United States,

but the islands passed to the United States by the treaty of Paris, and their disposition is, of course, with Congress, subject to such Executive regulation and control as their immediate government requires. That is all. Now, my own impression is that there is no doubt but that the abrogation of this treaty by the Executive will end it, but it would make assurance doubly sure if the Congress itself acted. That is all I have to say. I think that practically it is not necessary, and that theoretically it makes it stronger.

MR. WILLIAMS. I understood your statement to be that you were seeking to terminate this agreement on the ground that the Sultan violated the provisions of the treaty?

Secretary TAFT. Yes, sir.

MR. WILLIAMS. How do you determine that fact—that is a question of fact? How is that determined in order to act?

Secretary TAFT. We determine it simply by looking at the evidence of his acts or failure to act.

MR. WILLIAMS. Is it the evidence taken by the United States representatives alone?

Secretary TAFT. Yes, sir.

MR. WILLIAMS. Then it is an ex parte matter?

Secretary TAFT. Yes, sir, it is; just as the termination of any contract by the declaration of either party on the ground of violation of the other must be ex parte until a court shall decide it.

MR. WILLIAMS. That being true, do you not think that the action of Congress upon this question would give less room for any criticism or any objection than to leave it to the Executive Department?

Secretary TAFT. Yes, sir; I think so. In the one case the power of Congress is absolute and can not be questioned, and in the other case it is a question of fact.

MR. WILLIAMS. And that fact may be disputed?

Secretary TAFT. Yes, sir.

MR. CRUMPACKER. Do you mean to say that the Moros will resist the power of Congress covering the order of the Secretary of War in the cancellation of this agreement?

Secretary TAFT. I think they will, because I do not think they will make any distinction. What I mean to say is that the one ends it absolutely, and the other makes it a question of fact.

MR. CRUMPACKER. For campaign purposes we might be justified in passing this resolution, abrogating the treaty on the one hand, provided it does not provoke a Philippine and Moro war in the House and in the Senate in its passage to the President for approval?

Secretary TAFT. Having been absent from the country four years I am not an expert on what makes campaign literature.

MR. CRUMPACKER. I think some of us know.

MR. LANNING. As I understand it, the Philippine Commission has been advised to pass an act repealing the provisions of the act passed by them concerning the Moro Province?

Secretary TAFT. Yes, sir.

MR. LANNING. Relating to the Bates treaty?

Secretary TAFT. Yes, sir.

MR. LANNING. If the Philippine Commission abrogates the treaty and at a later date Congress should abrogate the treaty the status of the subsidies between the two dates might be a question of discussion, and would it not, if Congress does anything, be wiser for Congress to

confirm the action of the Commission rather than to pass an act which in itself in haec verba abrogates it?

Secretary TAFT. I am not prepared to answer that question. Of course, Congress may abrogate the treaty absolutely without regard to the reasons which actuated the Executive in abrogating it. Nevertheless, I think Congress might abrogate the treaty as of the date probably that the Executive abrogated it, confirming that action without basing it on the reasons the Executive had for the action.

The CHAIRMAN. Would that not be an advisable thing to do, to confirm the action of the Executive?

Secretary TAFT. I think it might be.

Mr. LANNING. The Commission has not acted so far as I am advised.

Secretary TAFT. No; but I have acted for the President. Whether the Commission acts or not, the party to the contract was the President, who acted through General Bates. I understand the law to be that the Secretary of War, indeed every Cabinet officer in the Department, acts for the President, and that his acts are the acts of the President, and certainly this action was taken with the concurrence of the President.

Mr. LANNING. Is it not true, in your judgment, that if the Philippine Commission should pass an act abrogating this treaty at one date, and Congress should pass another act abrogating the treaty at a later date it might leave the status of the subsidies between the two dates a question of dispute?

Secretary TAFT. It might be an intimation that the first act did not abrogate the treaty, and that there was no ground for it.

Mr. LANNING. Precisely.

Mr. DEGETAU. I desire to know if there was any treaty in existence between Spain and the Sultan at the time the Philippine Commission took charge of the government of the islands relating to those matters. I think under the terms of the treaty of Paris they had those rights, of which the Sultan speaks, and that some legal question might arise.

Secretary TAFT. I think I have seen some memorandums between the governor of Jolo and the Sultan, but my recollection is that there was nothing in the treaties that defined the rights of the Sultan in such a way as to prevent a complete transfer of sovereignty. There was a treaty between Spain, England, and Germany with reference to certain parts of the Jolo Archipelago and Paragua that seemed to permit the free entry of goods. That, if literally enforced, might be embarrassing, but I think that treaty has become obsolete; certainly we have never recognized it.

Mr. PATTERSON. The rights of the pearl fisheries have always been controlled by the Sultan?

Secretary TAFT. Subject to certain rights of the datos, and how far those were I fancy it is almost impossible to determine. There will have to be some kind of an investigating tribunal sent there to determine that.

Mr. PATTERSON. Are the pearl fisheries valuable?

Secretary TAFT. I think they are fairly so; there is no great wealth in them. The Chinamen are the men who control the pearl industry. They are the persons who take leases from the Sultan ordinarily or from the dato in the neighborhood. The difficulty there has been, and that is one reason why the treaty should have been abrogated some time ago, relating to all these rights. The Army has been modest

and restrained about interfering and it was the most powerful dato in the neighborhood who usually exercised his authority and let somebody go in and fish, and there was nothing but the right of force that absolutely controlled.

The CHAIRMAN. There is no possible way, is there, in which the making of the Bates agreement in the first instance or its abrogation now, either by the military power or by Congress, could in any way affect the pearl-fishery rights or any other rights of the datos or Sultan under any treaty they had with Spain?

Secretary TAFT. No, sir.

The CHAIRMAN. Will you kindly indicate on the map, for the benefit of some of the new members of the committee, who possibly may not be entirely familiar with this subject, what you understand by the Jolo group and where slavery exists, which the Sultan and datos propose to perpetuate—how much of the whole archipelago?

Secretary TAFT. The Jolo group is beneath this line [indicating on map], above is the island of Mindanao [indicating on map], and here [indicating on map] is the island of Basilan, and then over on this side [indicating on map], outside this group, is the island of Paragua. The Sultan of Jolo has claimed that he had rights in the island of Paragua from the middle of the island down, and he has leased to Prince Poniatowski, represented by Ledochowski, two promoters in California, for fifty years, the southern half of this island [indicating on map]. We have never recognized it. We passed a law, at the direction of the Secretary of War, declaring all such grants void because they were made without the consent of anybody.

The CHAIRMAN. Were those alleged grantors American citizens?

Secretary TAFT. I am not sure whether Prince Poinatowski is a Russian or an American, but my impression is that he is an American.

The CHAIRMAN. They are not Filipinos at all?

Secretary TAFT. No, sir. They were represented by a New York lawyer by the name of Mr. John R. Dos Passos.

The institution of slavery prevails in this neighborhood [indicating].

The CHAIRMAN. That is in the southwestern part of Mindanao?

Secretary TAFT. Yes, sir. Slavery prevails wherever there are Moros. The Moros are divided into four general classes, what are called the River Moros. This [indicating on map] is the Rio del Mindanao. It runs down here to Cotabato, and then there are the Lake Lanao Moros, where most of the fighting has been done. Lake Lanao Moros were never conquered by Spain. This is [indicating on map] where General Baldwin and subsequently Captain Pershing established garrisons, first at Camp Vickers on one side, and another camp, whose name I have forgotten, on this side [indicating on map]. This lake is 3,000 feet high. They have constructed a military road from here [indicating on map], Ilagua, to the lake at this point, and there is a very good trail or road from Camp Vickers on this side [indicating] down to Malaban on this side. The Zamboanga Moros, under Dato Mandy, have abolished slavery. Then there are the Jolo Moros, under the Sultan and a number of other datos, including those within the Tawi-tawi group. There are a few others, perhaps 1,500, in the southern part of Paragua.

Mr. ROBINSON. How many Moros are there altogether?

Secretary TAFT. Before the census was taken the number was greatly exaggerated. I should be surprised if the number exceeded 400,000 in

the entire Archipelago. It had been supposed previously that they reached 1,500,000. The census, however, I am bound to say with respect to the Moros, was not taken with anything like the accuracy that the census of the Christian Filipinos was taken.

Mr. PATTERSON. What proportion of the Moros are slaves?

Secretary TAFT. I am unable to answer that question, except to say that whenever there has been talk of buying the slaves they almost all become slaves. With respect to the actual number, I can not say. It would be a guess if I were to say 25 per cent. The Moros violate the rule of the Koran, as I understand, by enslaving their own people. The Koran permits the slavery of other people, but not of Mohammedans. A very poor tribe in this neighborhood [indicating on map south of Cotabato in Mindanao] has been the subject of kidnaping, and it is in this neighborhood that the army has had to station guards to protect a very poorly fed and poorly living tribe from which the Moros have heretofore gotten many of their slaves. They come up [indicating on map] from Jolo, and then take them back.

The CHAIRMAN. Mr. Secretary, will you kindly listen to a substitute resolution which Judge Crumpacker proposes?

Secretary TAFT. Certainly.

Mr. CRUMPACKER. My suggestion is to strike out all after the enacting clause and insert:

That the action of the President and Secretary of War, taken on the 2d day of March, 1904, unqualifiedly abrogating the agreement entered into between Brig. Gen. John C. Bates and the Sultan and certain datos of the Sulu Archipelago, on the 20th day of August, 1899, and commonly known as the Bates' treaty, is hereby confirmed.

Secretary TAFT. That meets the situation.

Mr. WILLIAMS. I understand you to say, and I suppose that is true, that the action taken by the Department is based on what it considered a violation of the terms of the agreement, and that, so far as our action should go, simply to ratify that action without going beyond that. If we limit our confirmation simply to the action you have taken, our action would also be based on the supposition that the terms of the Bates agreement had been violated?

Secretary TAFT. I should question that.

Mr. WILLIAMS. If we simply ratify what you have done?

Secretary TAFT. By ratifying and abrogating it I should think that you ratify it on every ground that you might summon.

Mr. WILLIAMS. But I understand we are simply ratifying what has been done by the Executive Department?

Secretary TAFT. Suppose we had abrogated it without stating any reason and then you would confirm it, would not your confirmation derive additional strength from the fact that you had the power, although we did not have it?

Mr. WILLIAMS. But you have stated reasons?

Secretary TAFT. Yes, sir.

Mr. WILLIAMS. If we are going to abrogate it we should limit our action to the mere supposition that the terms of the agreement had been violated.

Secretary TAFT. I do not know how far the confirming applies.

Mr. JONES. Do you think that we confirm all the statements of fact that are set forth in General Wood's report and the reasons? If we do that, we just simply say that we have examined this action on the

part of the Government in the Philippine Islands, and we ratify and confirm it, everything in reference to it, instead of taking independent action, as we have the right to do.

Secretary TAFT. That method of stating it is not without force, and I should like to think that over. I would like to see whether the abrogation could not be so framed as to leave no reason for misconstruction.

Mr. JONES. If Congress has the absolute power to do it, why should we not exercise that right; why should we predicate our action upon what has been done by the Philippine government, ratifying and confirming the action which it has taken in order to get an excuse?

Secretary TAFT. There is good reason for its action.

The CHAIRMAN. Now, Mr. Secretary, we will be glad to have you take up the sections of the bill relating to railroads.

Secretary TAFT. May I take up the entire bill?

The CHAIRMAN. Yes, sir.

Secretary TAFT. The first section of this bill provides that all bonds issued by the government of the Philippine Islands, or by its authority, shall be exempt from taxation by the Government of the United States, or by the government of the Philippine Islands, or by any State, county, municipality, or other municipal subdivision of the States and Territories of the Union and the District of Columbia. All the bonds that have heretofore been issued by the Philippine government have had the benefit of that exemption. Those bonds are the bonds which were issued for the purpose of maintaining the parity between the Philippine currency and the United States currency; that is, between the Philippine peso and 50 cents in gold. They include two issues of \$3,000,000 each, the authority being in the coinage act to issue \$10,000,000. They also include what are called the friar-land bonds, of which \$7,000,000 have been issued and sold.

The bonds, or as they are called in the coinage act, certificates of indebtedness, for the purpose of maintaining the parity were sold at a rate heretofore unheard of in the markets of the world. The first \$3,000,000 were 4 per cent bonds that ran for one year, and they were sold at a premium of more than 2.5 per cent, making the interest which was paid for that year's use of \$3,000,000 less than 1.5 per cent. The next \$3,000,000 were issued at a rate which was somewhat higher. I think it was 1.75 per cent. Then when the friar-land bonds came to be issued they were issued as 10-30 bonds—that is, redeemable after ten years and payable within thirty years. They sold at a premium which made the interest, calculated as ten-year bonds, to be 3.1 per cent.

Now, the reason for these low interest rates in the certificates of indebtedness was twofold; one was that the certificates of indebtedness were free from local taxation, and the other was that the Secretary of the Treasury agreed to receive them as securities for deposits in national banks; and at the particular time when they were issued there was a great demand for securities for deposit of that sort. The normal rate of interest is much more clearly shown in the sale of the friar-land bonds, which enjoyed the same privilege of exemption from local taxation and were also to be received for deposits, but at that time the financial situation seemed to have been better and there was not the call for securities of that sort, and so the rate of interest became, as I say, 3.1 per cent.

Under existing legislation there is authority to issue \$4,000,000 of

bonds for the city of Manila to build a water supply and to build a sewerage system, both of which are indispensable to the proper hygienic conditions in that city, but those bonds are by law made exempt only from United States Government taxation and from Philippine government taxation. They are still subject to taxation by cities, counties, and municipalities in the United States. We asked, as these bonds were issued for substantially the same purpose, to wit, to carry out the purposes of the United States in aiding the Philippine Islands to be rehabilitated in modern methods of government, that they be aided by the same exemption. The exemption really does not work to the disadvantage of anybody, for this reason, that if the bonds are issued subject to taxation they will be taken by persons who will not return them for taxation at all and no taxes will be realized out of them.

Then the question may be put, Why will they not then sell as well as if they were exempt? The reason why they will not sell as well is that there are certain bidders for bonds whose assets have to be shown to the public, who can not avoid the tax collector when he comes around to levy taxes on personal property. These are administrators, executors, trust companies, and various banking firms, and insurance companies that purchase this kind of a bond because it is exempt from taxation. Therefore it seems advisable to give us the benefit of that exemption for all the bonds which you authorize the issue of, in an experiment which is certainly a Federal experiment and in an agency which is certainly a Federal Government agency, clearly within your constitutional rights and where you are pursuing a policy that works no injury to anyone.

Mr. JONES. You assume, Mr. Secretary, that the parties who buy the bonds would not pay taxes on them?

Secretary TAFT. I assume it with a knowledge of facts that I think can not be contradicted. I come from Cincinnati and I do not think Cincinnati is less dishonest than any other city in the Union so far as taxes are concerned. You can sell 4 per cent county bonds in Cincinnati at certainly 1 per cent premium to the banks, and the banks dispose of those bonds at 1 per cent premium. The taxes on these bonds, if the bonds were returned for taxation, would be 2.5 per cent. You examine the personal-tax returns of Cincinnati and you will not see a single county bond, and yet that county has absorbed them.

Mr. JONES. And you think the great insurance companies would do the same thing?

Secretary TAFT. They can not, because they have to "show their hand," so to speak.

Mr. JONES. I understand that is the class of people who would buy them.

Secretary TAFT. If you have the exemption the insurance companies will buy them.

Mr. JONES. And if not, they will not buy them?

Secretary TAFT. If you do not have exemption, the insurance companies will not buy them because they have to "show their hand." I do not mean to say that they are more honest. What I mean is that those companies and those people who have to show to the public the kind of property that they have by reason of some statutory requirement want this kind of a bond.

Mr. CRUMPACKER. I want to ask you a question on the first section. I believe with you on the policy of making these bonds all nontaxable.

Are there or may there be any political subdivisions of the Philippine Archipelago that have the power of taxing property within their limits? There is no provision, I notice, that prevents any political subdivision in the Philippine Archipelago from imposing taxes.

Secretary TAFT. This has been the form, and you can reasonably count on the Commission never authorizing anybody to tax their own bonds. If you desire to make it certain, you could insert "by the government of the Philippine Islands or any subdepartment thereof." All the bonds you have heretofore authorized are bonds which can only be issued by authority of the Commission.

Mr. CRUMPACKER. Yes; that is true.

Secretary TAFT. And they can authorize the cities to issue bonds.

Mr. CRUMPACKER. But an amendment had better go in so as to make the matter absolutely without their power, "government of the Philippine Islands, or by any political or municipal subdivision of said Islands."

Secretary TAFT. The second section of the bill is the section which gives to the Commission of the Philippine Islands the power to issue not exceeding \$10,000,000 of bonds for the purpose of internal improvement. Heretofore the Philippine Islands have never issued bonds for the purpose of internal improvement; but there have been, as I have already said, two issues of bonds; but I do not think it is fair to call those a burden upon the credit of the islands, because the assets for the payment of the bonds appear in the laws which authorized their issue. For instance, the two issues of bonds were, first, the issue of certificates of indebtedness under the coinage act. The coinage act authorized the issue of \$10,000,000 of certificates of indebtedness to maintain the parity between the Philippine peso and 50 cents in gold. It is specifically provided that the money shall be used for nothing else.

The Philippine Commission has established what is called the gold-standard fund, and in that gold-standard fund it has incorporated the proceeds of these certificates and what is called the seigniorage—that is, the money made coining a peso worth 50 cents in gold out of silver that is worth only 40 cents, and that leaves to the government a profit of about 10 cents. The total profit thus far in the Philippine Islands out of the change in the coinage by seigniorage amounts to about \$1,500,000. That makes the gold-standard fund now consist of the \$6,000,000, which were the certificates of indebtedness issued in order that we might have a fund to inspire confidence in our ability to maintain the parity and also that we might have a continuing credit with which we might buy bullion, because the law specifies that \$3,000,000 of the \$10,000,000 could be used for that purpose, and we have that money now on deposit in the banks under a contract that whenever we have more than \$3,000,000 on hand we shall receive 3.5 per cent interest on daily balances. So I do not think it is fair to say that that \$10,000,000 is a burden in the sense in which an issue of bonds for public improvements which must be paid ultimately out of income is a burden.

Second, there are the friar lands. It is quite possible, though I hope not, that we shall have made, so far as money considerations go, a poor bargain in the purchase. My own hope is that at the end of ten years it will appear that we shall come out whole, but in any event we have by law secured as the basis for the issue of those bonds

400,000 acres of the best land in the Philippines, to devote the proceeds of to the payment of those bonds.

We have authority to issue \$4,000,000 of bonds for the construction of a water supply and the construction of a sewerage system in the city of Manila, which bonds are made specifically a charge upon the income of the city of Manila, and the tax roll in the city of Manila amounts to about \$45,000,000.

Mr. LANNING. Assessable values?

Secretary TAFT. Yes, sir. In Ohio we call it the tax duplicate. The total assessable values for taxation amount to about \$45,000,000. That is the present condition in the Philippine Islands.

We have spent out of our income upward of \$5,000,000 for improvements already, for the port works in Manila, for the construction of a road to Benguet, for the construction of various other important work in the islands. I am unable to give the various works which we have undertaken in the way of buildings and roads, except to say that the total is something over \$5,000,000. In addition to that we have to pay over \$600,000 for the taking of the census which Congress imposed on us. I am not complaining of it. Congress was generous enough to allow us to save about half the expense of the census by doing the tabular work in the Census Bureau of the United States, but that \$600,000, I think you will agree, was an extraordinary expense. Then we have spent, or have appropriated—and I prefer to use the word “appropriated,” because I think that mortgages the income in a sense—\$500,000 for the exhibit at St. Louis. Then the cholera has imposed on us a very large additional expense, estimated variously from \$500,000 to \$600,000.

We have received from the Government of the United States about \$3,000,000 to aid us because of the distressed agricultural conditions. Of that money we have spent something like \$1,200,000. The rest of it is mortgaged for the construction, as the law itself provided it might be, of roads and other public improvements, but what we are anxious to do now is to go ahead, for instance, with our port works in Manila, upon which \$2,000,000 have already been expended and which will probably cost before we finish, \$4,000,000. I am afraid that with the falling off of the revenue which has been taken in the last six months we may find it necessary to stop some of our public work. I have a telegram from Governor Wright in which he asks that authority be given for the issuance of \$5,000,000 of bonds. If we can not get \$10,000,000, we will be glad to have \$5,000,000, though \$10,000,000 would be a much more permanent fund.

Thereupon, the committee adjourned to meet Wednesday, March 16, at 10.30 o'clock a. m.

COMMITTEE ON INSULAR AFFAIRS,

March 16, 1904.

Hon. Henry A. Cooper, chairman, presiding.

STATEMENT OF HON. WILLIAM H. TAFT, SECRETARY OF WAR—
Continued.

The CHAIRMAN. Mr. Secretary, we will resume consideration of the bill.

Secretary TAFT. I was looking, at the time we adjourned, for a telegram from Governor Wright, on the subject of the issuing of bonds for public improvements, and have it here right under my hand now.

The CHAIRMAN. That was on section 2?

Secretary TAFT. Yes, sir; on section 2. I will read as follows:

Referring to change of plan for harbor improvements, Manila, involving increased outlay about \$800,000, which you and I favored, and which was laid before the Commission, latter of opinion that our finances do not warrant increased outlay. Our customs receipts for past six months have fallen off nearly 25 per cent. While we hope this is due to temporary conditions, under the circumstances, do not feel it safe to make large appropriations for permanent improvement. Same remarks apply to harbors Iloilo and Cebu, to Benguet railroad, and perhaps other needed public works.

It would relieve us much if you could get Congress to give the Commission authority to issue bonds for, say, not exceeding \$10,000,000, for works of public improvements.

And it is upon this telegram that I ventured to put in the bill the provision allowing the issue of \$10,000,000, limiting its use for public improvements.

Mr. CRUMPACKER. In view of the fact that it is proposed to make these bonds absolutely nontaxable and make them payable in gold, and so on, do you believe it is necessary to fix the rate of interest as high as 5 per cent?

Secretary TAFT. I do not know that it is. I think we could float them at 4 per cent.

Mr. CRUMPACKER. Do you think the 4 per cent limit would be entirely safe?

Secretary TAFT. Yes, sir. We have heretofore floated them at 4.

Mr. CRUMPACKER. None of your bonds cost you 4 per cent, do they?

Secretary TAFT. No, sir; The last issue cost 3.01 but we were afraid, in view of the condition of the money market at the time, to float them at 3½ per cent, because the law requires that they should be floated at par.

The CHAIRMAN. What did the coinage bonds sell at?

Secretary TAFT. They went so low it was 1.5 and 1.7 per cent. But there were peculiar conditions prevailing.

Mr. CRUMPACKER. Can you approximate the aggregate value of taxable property in the islands?

Secretary TAFT. No, sir; I can not. I could only give you what the property in Manila is worth and I can state to you generally what

the income from duties is. That is about \$10,000,000 a year. Then from Manila and other sources the collection into the insular treasury is likely to be about \$2,000,000 more. Then provincial collections and municipal collections run up the income to three or four millions more.

Mr. CRUMPACKER. The fact, however, of the policy of development that you hope to extend will be to largely increased valuations?

Secretary TAFT. Oh, yes, sir; a largely increased income. If we can induce Congress next year to make the trade free or to reduce it to 10 or 15 per cent, or 25 even, of the Dingley rates, I think we can show an income that will be very largely increased.

Mr. WARNOCK. I think you said at the last meeting, on Monday, the practical valuation of property in Manila—real and personal—was about \$45,000,000?

Secretary TAFT. Not personal; there is no tax on personal property.

Mr. OLMSTED. In what degree would the bonds proposed to be issued be lower in security than those recently issued in regard to the friars' land.

Secretary TAFT. Nothing; except that these would be dependent wholly on the income on the islands, whereas, under the law, the lands of the friars are themselves reserved as a source for a sinking fund with which to pay friars' lands' bonds.

Mr. OLMSTED. But those bonds now sell at 1.09 and 1.11; have you any doubt that these bonds would sell on a 4 per cent basis?

Secretary TAFT. No, sir; I have not. Of course, I say I have no doubt. When you are seeking authority it is more comfortable to get a little leeway, but personally I feel confident that we could float them at par at 4 per cent.

Mr. OLMSTED. You figure in view of their freedom from taxation?

Secretary TAFT. Yes, sir.

Mr. ROBINSON. I assume from the \$10,000,000 for the work mentioned that this is to be a continuing project; and could you estimate reasonably what the total sum of the completion of this class of work under this project would be in the next number of years?

Secretary TAFT. I could not, sir, at all. I could not give any estimate. If you make it \$5,000,000 you have only provided for half the time, and if you desire to make it \$5,000,000 I would not interpose a serious objection, though it would increase the necessity for coming to Congress again. My own conception of the duty of the Commission and duty of the government in those islands is to continually improve them by the construction of bridges, roads (which may be termed insular roads, as distinguished from mere local road branches), and large schoolhouses and port works. The islands are practically without any improvements at all, and I do not think it possible to carry on works of improvement of that sort without borrowing money. You can create sinking funds, and there ought to be created sinking funds, but, nevertheless, it is necessary to have the money, and it is not fair to impose the burden of all the improvements on the present tax-paying generation. I think it fairer to distribute it through twenty or thirty years than to impose it on the people who are paying the taxes to-day.

Mr. ROBINSON. A reasonable carrying out of this policy for which it is proposed to appropriate \$10,000,000 would within the next number of years (possibly not so long) necessitate an appropriation of from forty to fifty millions of dollars, would it not, for the same projects and purposes?

Secretary TAFT. It is very difficult for me to answer that. I should think you might count on the expenditure of \$2,500,000; perhaps we could spend that much a year; I am not sure. I think we have spent that much a year out of the current income. You could calculate then what that would amount to. That would amount to \$25,000,000 in ten years, would it not?

Mr. CRUMPACKER. You hope that you will be able to carry on part of this improvement by current income?

Secretary TAFT. Yes, sir; I do.

Mr. CRUMPACKER. And you do not contemplate the issue of bonds for the entire improvement?

Secretary TAFT. No, sir. We have had heretofore a surplus, but I think that surplus is disappearing now; and what we wish it for is merely (and I am willing to reduce the application to \$5,000,000 if the committee would prefer) to have something to which we can look in case the income fails us.

Mr. WILLIAMS. Mr. Secretary, are the \$10,000,000 asked for based upon any estimate as to the amount that should be used for each particular class in which you propose to engage?

Secretary TAFT. No, sir.

Mr. WILLIAMS. It is just a gross sum?

Secretary TAFT. That is all.

Mr. WILLIAMS. Without any estimate?

Secretary TAFT. That is all.

Mr. ROBINSON. Your repair charge for highways each year is almost equal to the original cost of construction, is it not, in the islands, and would the current expenses of the islands more than bear the deterioration?

Secretary TAFT. The repair charges are very heavy, indeed. The torrential rains tear the roads up in a way that is most discouraging. I do not think they are quite equal to the cost of construction, but we hope to make the provinces bear more or less of that; but I do not think they can be expected to bear the repair charges on the trunk lines, if I may use that expression. That will have to come out—

Mr. ROBINSON. Would the current expenses of the islands be more than sufficient, then, to bear all repairs and charges?

Secretary TAFT. I think they would, if we get the legislation we wish.

Mr. WILLIAMS. Would the railroads be subject to the same disturbances in the islands?

Secretary TAFT. No, sir. I talked with General Wood and General Davis on that subject. They have had a good deal of experience. The maintenance of railroads is cheaper than the maintenance of highways, because the effect of the rain on the railroad is by no means so severe as it is on the highway.

The CHAIRMAN. Mr. Secretary, we will consider the next section.

Mr. WARNOCK. From this provision that the President of the United States, with the Secretary of War, shall approve these bonds, it is a moral obligation on the part of the United States to see that they are paid?

Secretary TAFT. No, sir; I do not think so—no moral obligation other than in the sense that if Congress authorizes some subordinate body to issue bonds it is not likely to allow loans made by the subordinate body under its authority to go to protest; that is all. And I

suppose you can not avoid the effect of that, even though you were to declare that you were not liable. There is no legal obligation on the part of the Government of the United States to pay these bonds. You confer authority on the Philippine government to issue them and on the Philippine government to pay them, but you assume for the Government of the United States no legal obligation.

Mr. WARNOCK. No complication would arise over that?

Secretary TAFT. No, sir. This action by the President or Secretary of War is really a provision that is superfluous, because no legal act of the Commission can take effect without the approval of the Secretary of War, under existing law. I think that section ought to be changed, and it ought to be limited either to the President of the United States or to the Secretary of War, because if the Secretary of War approves it is the act of the President of the United States, and if the President approves, the Secretary of War can not very well disapprove.

Mr. CRUMPACKER. If the President approves it is practically true it is on the Secretary of War's advice.

Secretary TAFT. Yes, sir. I think one of those could be just as well stricken out.

Mr. LANNING. Mr. Secretary, is there any power now vested in the Philippine Commission to authorize any indebtedness to be created, by bond or otherwise, for municipal or local improvements?

Secretary TAFT. Yes, sir. I think I explained yesterday that the Commission has the power to issue bonds and charge their payment upon the income of the city of Manila to the extent of \$1,000,000 for sewerage and water supply.

The CHAIRMAN. That is under the act of 1902?

Secretary TAFT. Yes, sir. Then there is a section that provides that the Philippine Commission may authorize a municipality to issue bonds, the total amount of which shall not exceed 5 per cent of the assessed value of property for taxation in the town, with the consent of the Secretary of War, the President of the United States, and the Congress of the United States.

Mr. LANNING. Have there been any bonds issued of that character?

Secretary TAFT. No, sir.

Mr. LANNING. Have there been any bonds for the building of sewers, etc., in Manila?

Secretary TAFT. No, sir; but that may be considered as if it had been done for the reason that plans have been matured for both the sewage and the increase of the water supply, and there is sitting in Manila to-day a board of engineers, the presiding member of which is Mr. Desmond Fitzgerald, of Boston, to determine the feasibility of the plans prepared, and as soon as that is settled by this board of engineers bonds will be issued and work begun, because it is of very great importance to the city.

Mr. LANNING. Are those bonds—that is, the bonds that are issued under the four million limitation—required to be approved by either the President or the Secretary of War?

Secretary TAFT. My impression is that they are. As a matter of general law they would have to be.

Mr. LANNING. Then I understand the entire bonded indebtedness of the Philippine government, whether it be issued in the form proposed by the bill now pending before us or whether the bonded indebtedness be

authorized by the Philippine Commission for local improvements, there is a record of that entire bonded indebtedness here in Washington?

Secretary TAFT. Yes, sir. They are all let here, as a matter of fact. The bonds are sold in this country and they are sold through the Bureau of Insular Affairs, but no bond would be legal the issue of which had not been approved by the Secretary of War.

Mr. PATTERSON. Can the Philippine government issue these bonds without the authorization of Congress?

Secretary TAFT. That is a question of construction of the Philippine act. The doctrine *expressio unius est exclusio alterius* would limit the legislative powers which are conferred upon the Philippine government so as to prevent the issue of bonds, because there are certain sections that authorize expressly the issue of bonds. Were they not in the bill I should think the language was wide enough to authorize the Philippine government to issue bonds and borrow money, though it would be by no means free from doubt; and I am sure the Philippine Commission would never exercise the power, especially for the reason that if there is the slightest doubt about the power to issue bonds, then you have to pay 1, or 2, or 3 per cent in order to cover the risk involved in the construction of the law.

The CHAIRMAN. Mr. Secretary, permit me to say right there, in reply to Judge Lanning, that the bonds which the city of Manila is authorized to issue require first the approval of the President of the United States.

Secretary TAFT. I had forgotten the exact language.

The CHAIRMAN. The consent of the President of the United States has to be first obtained. (Sec. 7, act of 1902.)

Secretary TAFT. I would like to call your attention, Mr. Chairman, to that section. I think you will find the section does not exempt those bonds except from United States and Philippine taxation. It does not give the exemption which the friars' bonds have and which the first section of this proposed act would give them. That is one reason why it is important we should get this act through, if we can get it through, before the issue of those bonds, so that we may get the benefit of the reduced interest that would follow the attribute of exemption of taxation.

Mr. CRUMPACKER. The purpose of section 3 of the bill before us, Mr. Secretary, is to amend section 66, that we eliminate the requirement that Congress shall approve the bonds?

Secretary TAFT. Yes, sir.

Mr. CRUMPACKER. And to increase the limitation of aggregate indebtedness in various municipalities from 5 to 10 per cent?

Secretary TAFT. Yes, sir. I do not press that increase from 5 to 10 per cent, although it is a very low limit.

Mr. ROBINSON. Under the Harrison act for the Territories it is only 4 per cent.

Secretary TAFT. I am not familiar with that.

Mr. ROBINSON. That was passed in 1888, and it has been the ruling factor in all legislation for all Territories. The limitation is 4 per cent.

Mr. CRUMPACKER. The conditions in the Territories are different from those in the Philippine Islands.

Secretary TAFT. I do not press that, Mr. Chairman—the increase from 5 per cent to 10 per cent—if the committee are doubtful about it

at all, but what we wanted to do was to make this section workable. Now, there are 900 towns, and in many of them the water supply is essential to the health; I mean an improved water supply is essential to the health of the towns. If we could have driven wells and a small water system, we could probably reduce the death rate by 50 or even 75 per cent, and it was with a view to making this workable, because we should hardly like, and it does not seem feasible, to apply to Congress for the right to borrow a thousand dollars nor two thousand dollars for one town and five hundred dollars for another town and so on. If we could have the privilege of borrowing money for each of the 900 towns to put them into good hygienic condition, it would accomplish wonders for the islands. We might, of course, go to work and make a report to Congress and have Congress authorize the issue of so many bonds for so many towns, and if the committee thinks that that is the wisest course, well and good.

The CHAIRMAN. I infer from what you say that impure water is the great cause for disease.

Secretary TAFT. Yes, sir; it is.

The CHAIRMAN. You think driven wells—

Secretary TAFT. I think driven wells would accomplish wonders. Water is the cause of amœbic dysentery. It is the cause of a great many bowel troubles. During the cholera season it makes life in the country almost inevitably attended with very great danger from the epidemic.

Mr. LANNING. Mr. Secretary, in view of your varied and extensive judicial experience, may I ask you a question that has just struck me? Of course it is very important that the legislation authorizing the issue of bonds shall be unassailable from any constitutional standpoint. Now, let me call your attention to section 66, as proposed to be amended, I suppose the same as in the present act, however—

Secretary TAFT. Yes, sir.

Mr. LANNING. You will observe that the Philippine Commission and the President and the Secretary of War are together made a legislative body—that is my construction of it—to authorize the issue of bonds. Is there any objection to associating the President and the Secretary of War with the Philippine Commission, as it is here done, in view of the constitutional provision that legislative functions can not be delegated to the executive branch?

Secretary TAFT. I think not. The government of the Philippine Islands, by virtue of the fundamental statutes that create it, includes the Secretary of War, and therefore includes the President, as a part of the legislature of those islands, because, under the instructions issued by President McKinley to the Secretary of War, he makes provision that nothing which the Philippine Commission shall do shall have validity unless approved by the Secretary of War.

Now, those instructions are carried into Congressional legislation by the Philippine act of July 1—I think it was 1902. So that under the present law nothing can be done by the Philippine government as a government in the way of legislation, unless it includes either the express or tacit approval of the Secretary of War, representing the President. So that if you were to leave out “with the consent and approval of the President and Secretary of War,” it would still be necessary under the statute which constitutes the government to have

the consent of the Secretary of War. Were you to say, "The Philippine Commission under such limitation, terms, and conditions as may be described, with the consent of the Secretary of War," you would be reciting what the Philippine government now is; but I think the expression "the government of the Philippine Islands" was inserted to include not only the present Philippine Commission, but any subsequent government that might be substituted for it.

Mr. OLMSTED. Your suggestion in the preceding section about the necessity for inserting "the President and Secretary of War" would apply also here?

Secretary TAFT. I think the expression might very well leave out one or the other of them.

Mr. LANNING. Wouldn't it be wiser to say "with the consent of the Secretary of War" than to associate the President, who is the head of the executive branch of the Government, with a purely legislative function?

Secretary TAFT. Do you think it is so clearly established that the President has not legislative power?

Mr. CRUMPACKER. He has the veto power.

Mr. LANNING. I suppose there is a sense in which we may say the President is associated with legislative functions as to all acts passed by Congress. He approves them or vetoes them. At the same time, lawyers are familiar with that class of cases in the Supreme Court here where the distinction is drawn between those acts that the President may do and those that he may not do in view of this constitutional provision that we have in mind. I do not know at all if any question of that sort would be raised here.

Secretary TAFT. I think it is very wise to eliminate one or the other, because it gives the impression that President and Secretary of War are to constitute a board.

Mr. CRUMPACKER. Don't you believe, Judge Lanning, that along the line of your thought it would be better to leave the power of approval with the President in view of the fact that the Constitution of the United States vests in him the power of approval of all legislation by Congress?

Mr. OLMSTED. The act constituting the Philippine government already provides for the Secretary of War, whether we name him here or not. Am I not right?

Secretary TAFT. Yes, sir.

Mr. LANNING. I would say, if this were original legislation I would be inclined to agree with your suggestion, Judge Crumpacker, but you are amending this section, you must remember, in the original, and if you substitute the approval of the President only, for the language we now have, you are changing in quite a material respect the existing law and the law as it has heretofore been followed.

Secretary TAFT. The section has never been acted upon. There has been no precedent established.

Mr. CRUMPACKER. The original section included both the President and the Secretary of War, and Congress in the bargain. We are trying to eliminate Congress; that is all.

Secretary TAFT. You might eliminate the President at the same time.

The CHAIRMAN. The original section had "the consent and approval of the President and Congress." The Secretary of War is not mentioned in it.

Mr. LANNING. Now, what is the constitutional provision that refers to the approval of Congressional acts by the President?

The CHAIRMAN. Every bill must go to him for his approval.

Mr. LANNING. The word "approval" is used, is it not?

The CHAIRMAN. That is the phraseology; the bill must go to him for his approval.

Mr. LANNING. The Constitution confers upon the President the power, in express terms, to veto, approve, or disapprove Congressional acts. Of course, it says nothing about the acts of such a legislative body as the Philippine Commission, and when you associate the President with legislation of the Philippine Commission, do we not raise a suspicion that he is made a part of the legislative body, and, if so, is there any objection to it that can be raised under the Constitution?

The CHAIRMAN. Section 7, Article I, of the Constitution reads as follows:

Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to the House in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it;

and then they can pass it over his veto, etc. So, to the extent of his signature, he enters into all legislation.

Mr. PATTERSON. Mr. Chairman, what is the purpose of making a provision there for the approval of the President or the Secretary of War at all? You have got a Commission there appointed. Why not give them this power?

Mr. ROBINSON. They are not responsible to anybody. They are not elected.

Mr. CRUMPACKER. It is a safeguard.

The CHAIRMAN. If the United States is to be in any sense morally or otherwise bound to pay these bonds, it has got to have some one here with veto power—

Secretary TAFT. There is this practical distinction: If you insert "with the consent of the Secretary of War" with respect to the issue of bonds, there will be an affirmative approval by the Secretary of War under his hand. Now, every act is presumed to be approved, unless disapproved by the Secretary of War. That is, the acts are notified to the Secretary of War, and if he takes no action that constitutes an approval. That has been the practice ever since the Philippine Commission began to legislate. Where you insert, however, in a section like this, "With the consent of the Secretary of War" when the bonds are to be issued, it would involve, probably, and indeed all the bonds heretofore issued have had, the approval of the Secretary on their face.

Mr. LANNING. Why not say "With the consent and approval of the Secretary of War?" What objection could be made from any view point?

The CHAIRMAN. With the "consent and approval" first of the Secretary of War; put those two words as they are in the other sections. Let the consent be preliminary to the issue of the bonds.

Mr. OLMS TED. The issue of bonds would meet the affirmative act of the Secretary?

Secretary TAFT. Yes, sir. Of course, it is a little difficult for me to say what motives enter into the minds of bond purchasers, though they seem to be entirely willing to take any bonds from the Philippine government the issue of which is authorized by Congress. They may assume a moral guaranty by the United States Government; I do not know.

The CHAIRMAN. Will you permit me to ask this question right there? Is not the whole purpose of this section to empower "the government of the Philippine Islands, under such limitations, terms, and conditions as it may prescribe, with the consent and approval of the President and Secretary of War, to authorize and enable, by appropriate legislation, any municipality of said islands to incur indebtedness, borrow money, to issue and sell (at not less than par value in gold coin of the United States) registered or coupon bonds?"

Secretary TAFT. Yes, sir.

The CHAIRMAN. That means, does it not, that the act of the Philippine Commission which authorizes the local municipality to issue bonds, etc., shall receive first the consent of the Secretary of War—the act itself shall be sent here for approval?

Secretary TAFT. Yes, sir. If you strike out "the Secretary of War," then you add to the sanction of the act a requirement that does not apply to other acts, to wit, the express approval of the President of the United States. And possibly that ought to be put in in order to give the issue more protection.

Mr. LANNING. What ought to be put in?

Secretary TAFT. What I object to in its present form now is that the President and Secretary of War are made a board with apparent equal rights. As a matter of fact, that is not the way it works. The Secretary of War is the finger of the President and acts for him, and therefore when you say "with the approval of the President and Secretary of War," it does not mean anything more than the approval of the President.

Mr. LANNING. Why should not this be with the consent and approval of the Secretary of War, and strike the word "President" out, because the Philippine government belongs to the Department of the Secretary of War?

Secretary TAFT. That is true, sir; but if you put in "the approval of the President," you secure an additional sanction, and that is what I understand the act contemplated—a sanction additional to that which applies in ordinary legislation.

Mr. PATTERSON. Mr. Secretary, if these bonds are issued and approved by the Secretary of War and the President, does it not commit the United States indefinitely to this scheme of improvement in the Philippine Islands, and would not the Government be held responsible, not only morally but legally as well?

Secretary TAFT. No, sir.

Mr. PATTERSON. If the bonds were approved?

Secretary TAFT. No, sir; I do not think so. For instance, suppose the islands were to be declared independent and the government were established out there, the obligation of the bonds would depend upon the treaty of transfer, the negotiation, whatever it was. Ordinarily, bonds of this sort follow the territory for whom they were issued, though not always.

Mr. PATTERSON. Without any change of that sort, would not the Government—

Secretary TAFT. The government itself, the Phillippine government, is responsible.

Mr. PATTERSON. I understand that is responsible, but would not this Government be responsible also?

Secretary TAFT. Except morally, I think not.

Mr. PATTERSON. If they approve the bonds, would that not make—

Secretary TAFT. They authorize the bonds.

Mr. PATTERSON. They authorize and approve them as I understand the terms of this act. Would not that make a legal obligation as well as a moral one?

Secretary TAFT. I think not.

Mr. WILLIAMS. They approve the act under which the bonds were issued.

Secretary TAFT. For instance, suppose the State of Tennessee should authorize Shelby County to issue bonds, as it did, or the city of Memphis, or the Shelby taxing district. The suits were brought against those local corporations. They could not be brought against the State of Tennessee because it enabled or authorized the local corporations to issue the bonds. And it does not seem to me that the relation of the Phillippine government is any closer to the United States Government than the Shelby taxing district, or the city of Memphis, or county of Shelby would be toward the State of Tennessee. It is a subordinate corporation exercising the functions of government which may be under the ordinary rule delegated.

Mr. PATTERSON. In that kind of a case, Mr. Secretary, I do not think the State would feel any moral obligation to pay the bonds. You suggested here probably the Government, having authorized the issuance of the bonds, would feel a moral obligation to protect those bonds.

Secretary TAFT. That is only because the United States Government would have a little more conscience than the State of Tennessee; that is all. I do not think the morality of the obligation is any stronger in the one case than in the other.

Mr. PATTERSON. Is it not a fact, Mr. Secretary, that you have stated here that these bonds would command a better price if approved by the President and Secretary of War than they would if issued under the authority of the Phillippine Commission?

Secretary TAFT. I am not prepared to say. I did not think I had said—

Mr. PATTERSON. I thought you had stated that.

Secretary TAFT. Of course, all that the bondholders want is certainty as to authority, and if they are certain of the Congressional authority and the issue of bonds in accordance with that authority—

Mr. WILLIAMS. It is there business to see if they have been issued in accordance with authority? They have means of looking that up?

Secretary TAFT. And if the means supplied are sufficient to enable them with certainty to assure themselves, why, so much the better.

Mr. WILLIAMS. Mr. Secretary, I do not understand that this guaranty from the National Government would even go so far as to guarantee that the bonds were issued in accordance with authority?

Secretary TAFT. Not at all.

Mr. WILLIAMS. It is simply a guaranty that the authority given the Philippine Commission is sufficient?

Secretary TAFT. Yes; that is all. The Government of the United States is to give preliminary authority, and then it is at the risk of the bondholder to say whether that authority has been properly followed.

Mr. WILLIAMS. Or whether the security is good?

Secretary TAFT. Yes, sir.

Mr. PATTERSON. How does it add anything to the validity of this authorization by Congress to the Philippine Commission to say that the bonds must be approved?

Secretary TAFT. It does not add anything to their validity.

Mr. PATTERSON. In other words, an investor would not have any difficulty in determining that the bonds were rightfully authorized, if this act were passed eliminating the approval of the President and Secretary of War?

Secretary TAFT. That is quite true. All it does is to secure in the issue of the bonds, and as a condition precedent to the issue of the bonds, the exercise of the discretion of either the President or the Secretary of War, as Congress may wish to have that discretion exercised, in determining whether the bonds shall be issued.

Mr. PATTERSON. Why do you think investors would be more likely to take these bonds with this sanction or approval by the President and Secretary of War than without it?

Secretary TAFT. I did not intend to say so.

Mr. PATTERSON. I understood you to say so.

Secretary TAFT. It adds an additional sanction, that is all.

The CHAIRMAN. And it will go a long way to assure the people of the United States, if such assurance should ever be thought necessary, that the issue of these bonds was for legitimate purposes and not for the purposes of exploitation. It would have that assurance, would it not?

Secretary TAFT. I think it would insure the discretion of an officer not in the islands, but somewhat removed, and would add a responsibility—would impose on him, I mean, a responsibility in respect to the bonds which without such a provision would be absent.

Mr. ROBINSON. Are you quite sure, Mr. Secretary, you could float a bond issue without an express indorsement—without the hand on the bond itself?

Secretary TAFT. I do not know. I only know the bonds which we have issued have always been issued by the War Department, signed with the signature of the Secretary of War and signature of the governor of the islands.

Mr. ROBINSON. That was rendered necessary in the Hawaiian bonds. I think it would make possible the floating of the issue.

Secretary TAFT. What affects bondholders I am not prepared to say.

Mr. WILLIAMS. Mr. Secretary, if we limit the approval of the Secretary of War to the act itself, without looking after anything subsequent to that, why should not the proviso at the conclusion of section 2 be changed in accordance with that, and instead of saying: "*And provided further*, That the creation of indebtedness and the issue of bonds under this section shall be approved by the President of the United States and the Secretary of War," say: "That the act authorizing the indebtedness and issue of bonds shall be first approved?"

Secretary TAFT. This seems to require the approval of the act and also the issue of the bonds.

Mr. WILLIAMS. I do not think myself that ought to be a part of the duty of the Secretary of War. I think it ought not to go beyond simply the act itself.

Secretary TAFT. It is convenient for the Secretary of War to supervise the issue from here, because the Philippine government has no means of acting except through the War Department. Otherwise it will have to employ a financial agent in New York City and be subjected to expenses that they now can avoid.

Mr. WILLIAMS. Of course, if he approves the issue, it might imply some liability, you know, as to a guarantee against any irregularities in the issue of the bonds there. I mean as to the steps that have been taken there to comply with the law.

Mr. WARNOCK. Is not this proposition similar to the authority that was granted for the issuing of the friars' land bonds?

Secretary TAFT. I have not that act with me.

Mr. WARNOCK. I have the impression that the Attorney-General has published an opinion somewhere—at least I have seen a newspaper notice to that effect—that the United States is practically liable for those bonds.

Mr. WILLIAMS. Those bonds were issued under an act of Congress directly?

Secretary TAFT. Yes, sir; they were issued under section 7, I think, of the act.

Mr. WILLIAMS. It was by an act of Congress that they were negotiated, and not by any act of the Philippine Commission?

Secretary TAFT. Authority was given to the government of the Philippine Islands, but there were mandatory obligations on the part of the Philippine government to buy.

The CHAIRMAN. I have the friar-land section if you would like it.

Mr. CRUMPACKER. This whole question was settled in the original bill. The bill proposed before the committee now is simply to amend the original section by striking out "by consent of Congress" and adding "Secretary of War."

Mr. WILLIAMS. That proviso goes further.

Secretary TAFT. I will read:

And for the purpose of providing funds to acquire the lands mentioned in this section said government of the Philippine Islands is hereby empowered to incur indebtedness, to borrow money, and to issue, and to sell at not less than par value in gold coin of the United States of the present standard value or the equivalent in value in money of said islands upon such terms and conditions as it may deem best, registered or coupon bonds of said government for such amount as may be necessary, said bonds to be in denominations of fifty dollars or any multiple thereof, bearing interest at a rate not exceeding four-and-a-half per centum per annum, payable quarterly, and to be payable at the pleasure of said government after dates named in said bonds not less than five nor more than thirty years from the date of their issue, together with interest thereon in gold coin of the United States of the present standard value or the equivalent in value in money of said islands, and said bonds shall be exempt from the payment of all taxes or duties of said government, or any local authority therein, or of the Government of the United States, as well as from taxation in any form, by, or under any State, municipal, or local authority in the United States or in Philippine Islands. The moneys which may be realized or received from the issue and sale of said bonds shall be applied by the government of the Philippine Islands to the acquisition of the property authorized by this section, and to no other purposes.

Mr. JONES. We did not need to do so for the reason that the issuing of those bonds was a special authorization?

Secretary TAFT. Yes, sir.

Mr. JONES. And did not need to be approved. But in a general one like this, I understand this reservation of approval by the President and Secretary of War is simply intended—

Secretary TAFT. To secure their discretion.

Mr. JONES. To secure the discretion and approval of those representatives of the United States Government?

Secretary TAFT. Yes, sir.

Mr. JONES. And that is all about it, as I understand it?

Secretary TAFT. Yes, sir.

The CHAIRMAN. We now come to section 4.

Secretary TAFT. Section 4 I would like to skip and go on to the others, and then come back to it, because it is likely to involve considerable discussion.

The CHAIRMAN. Section 5, then?

Secretary TAFT. Section 5 provides:

That the immigration laws of the United States in force in the Philippine Islands shall be administered by the officers of the Philippine government, designated by appropriate legislation of that government, and all moneys collected under said laws as duty or head tax on alien immigrants coming into the Philippine Islands shall not be covered into the general fund of the Treasury of the United States, but shall be paid into the treasury of the Philippine Islands to be used and expended for the government and benefit of said islands.

The necessity for that section requires a statement of a little legislative history. Under the old immigration act the provisions, so far as they had been made applicable by executive order of the military government, were continued under the civil government without amendment. Of course, therefore, in applying the act, the military governor was able to say that these laws shall be enforced by the officers of the Philippine government and designate what officers should enforce them. The officer in question was the collector of customs of the Archipelago, but the new immigration law provided a new machinery for the enforcement of the law, and at the end of the law was contained a section which said: "This shall apply not only to the United States but all possessions of the United States;" and that then involved the inquiry: "Who is to execute the law in the Philippine Islands? Shall the United States officers charged with that duty in the United States send out a number of agents to enforce that law in the Philippines, or shall the law continue to be enforced by the Philippine collector of customs?"

The law officer of the law department dealing with the situation, which was very difficult to deal with (it may be said by main strength), held that there was power to enforce the law by the collector of customs of the Philippine Islands, and it was not necessary for the United States to send men out and increase the expense to enforce the law in the Philippine Islands. And that was approved by the supreme court of the islands. I think the case is now on its way to the Supreme Court of the United States. Congress, in act 9480, in the legislative, executive, and judicial bill, I think, that has passed both Houses now, has made provision as follows:

The immigration laws of the United States in force in the Philippine Islands shall be continued to be administered by the officers of the Philippine government.

We have been very anxious in the islands and in the War Department, so far as possible, to have the only bond between the Philippine government and the United States the War Department, the Secretary of War, and the governor of the islands, because were we to have bureaus in various departments of the United States Government exercising independent authority in the Philippine Islands it would lead to hopeless confusion. They could not get on at all; yet there is a natural disposition on the part of the heads of some bureaus to get their fingers into the government of the Philippine Islands. It was not the case here, because the head of the Department of Commerce and Labor that is charged with the enforcement of the immigration laws was entirely willing to have those laws enforced as they had been theretofore, so that by friendly arrangement the laws continued to be enforced in this way until Congress has confirmed the action taken. But there is one feature which is not covered by the legislative appropriation bill, and that is the feature covered by the second part of this proposed section, as follows:

And all moneys collected under said laws as duty or head tax on alien immigrants coming into the Philippine Islands shall not be covered into the general fund of the Treasury of the United States, but shall be paid into the treasury of the Philippine Islands, to be used and expended for the government and benefit of said islands.

Now, as a matter of fact, the amount collected under the immigration laws hardly pays more than the expense (I mean in the Philippine Islands) of enforcing those laws; therefore, the only effect of section 5 is to permit the money which we collect to be used to pay the expenses.

The CHAIRMAN. Under the law, Mr. Secretary, as it now stands, that is not the amendment which General Bingham put in the legislative appropriation bill, that money collected in the Philippines has to be deposited in the Treasury of the United States?

Secretary TAFT. It ought to be; but I think there is a construction by some of the auditing officers which permits us to set off the expenses against the collections before we make the deposits.

The CHAIRMAN. Yes; but if there was any considerable surplus it would have to come to the Treasury of the United States, and this amendment which you propose would obviate that and have it pass directly to the Treasury of the Philippine Islands without having it coming here in the first instance?

Secretary TAFT. Yes, sir; so far as the money is concerned it is a very unimportant item; so far as the trouble of accounting is concerned, it is a very considerable item.

Mr. DEGETAU. In relation to this section I would like to know your opinion of the practical value of the means to avoid the disembarkment in the Philippine Islands of Chinamen. Do you think, for so long a coast, it is easy to patrol that coast and prevent the disembarkment of the Chinamen, for instance?

Secretary TAFT. We have fifteen revenue cutters that cost us a million dollars; and, by the way, I have omitted to mention that we paid that out of the revenue of the islands. With these we are able to furnish fairly good protection against the violation of all laws, except the importation of opium. Opium is in such small packages, it can be sold in so many various ways by Chinamen, it is almost impossible to avoid the evasion of duty; but so far as the introduction of Chinamen themselves is concerned, if we can avoid fraud by the officials, we can keep

the Chinamen out. I think we are about as successful in this regard as they are in the United States.

MR. DEGETAU. You refer to the present condition?

Secretary TAFT. Yes, sir.

MR. DEGETAU. In case they could have any reason to desire in a more intense way to go to the Philippine Islands, it would be a little difficult, it would seem to me, in a practical way, to prevent entry.

Secretary TAFT. Yes, sir. I can only say the profit which a Chinaman will make if he gets into the Philippine Islands over what he earns in Hongkong or in Canton is so very great now that there ought to be a very great influx of Chinamen if the laws could be easily avoided. Now, the result of the census of the Chinamen shows a very much less number than we supposed. We had supposed there were about 60,000 Chinamen in the city of Manila. As a matter of fact, there are probably not more than 25,000. And so in the other cities the estimates are to be similarly reduced by reason of the census.

MR. DEGETAU. That seems to indicate the ingression is not very highly desired by the generality of the Chinamen. But, I say, if conditions should change, if we could have a greater—

Secretary TAFT. Chinamen are willing to come in if they can; because, we had an investigation and the trial showed a corrupt contract made between two Americans and a vice-consul with the tautai, (he is a Chinese official), by which coolies were to be furnished means of getting into Manila as merchants, and were to pay, I think, \$150 to \$200. I spoke with one of the accomplices about that matter and he said that they ought to have put it up to \$400. If they are willing to pay \$400 to come in, it is an indication there is some profit in it after they get in. But I do not think that the laws are very much evaded; I mean, by getting in anywhere except in Manila itself, by fraud.

The CHAIRMAN. We will now take up section 6.

Secretary TAFT. Section 6 I would like to have read as follows:

The Philippine Commission, or the legislature which shall succeed it, is hereby authorized to fix the annual compensation of the judges of the supreme court at not exceeding \$10,000 a year. In case there shall not be a quorum present in the supreme court on account of the absence or illness of judges thereof, or because of vacancies which have not been filled in said court, then it shall be within the power, and it shall be the duty, of the civil governor to designate as many judges of the court of first instance to sit in the supreme court as shall be required to make a quorum. When so designated, a judge of first instance shall exercise all the powers and functions of a supreme judge. If his usual place of residence is in Manila, then he shall receive no additional allowance for sitting on the supreme court. If, however, his usual place of residence is at some other place in the Archipelago, then he shall be allowed his reasonable traveling expenses from his usual place of residence to Manila and return, and he shall also be allowed the sum of 10 pesos a day during his absence from his place of residence under such designation.

I do not think from our experience that the salary which is paid to the supreme judges of the court of the Philippine Islands is sufficient. The salary is now \$7,500 for the chief justice and \$7,000 for the associate justices. We have had two or three very valuable judges from America, all of whom have resigned and are coming home, because they find it impossible to live and maintain themselves with the salary in Manila; therefore I would like very much if it could be left to the discretion of the Commission to fix the salaries and not impose it on Congress at all. The second provision, that which enables the civil governor to keep the supreme court full, I think will appeal to the committee, and

it is one that is quite essential at present, because there are coming over to the exposition two or three Filipino members of the court who have leaves of absence and whose coming away will destroy a quorum.

The CHAIRMAN. Mr. Secretary, that reminds me of your testimony given here two years ago. You then said that the supreme court of the Philippine Islands, consisting of seven members, three of whom were native Filipinos (the chief justice himself being a native Filipino), would compare favorably with the supreme court of any State in the United States, in your judgment. Does that still obtain?

Secretary TAFT. Yes, sir. The appointment of supreme judges now rests with the President, and we are very anxious to maintain the standard of that court if we can.

The CHAIRMAN. It has been up to this time a body of able lawyers and of men of superior character?

Secretary TAFT. I do not like to use invidious comparisons, but one of the ablest men on the bench, Judge Willard, of Minnesota, has resigned, and is coming home simply because his expenses of living in Manila are so great that he can not afford to live there.

Mr. ROBINSON. Would you venture an opinion as to the appropriate salary?

Secretary TAFT. If I were fixing it myself—I do not think the Commission would fix it that way, because Judge Ide and some of the other members are more conservative than I—if I were fixing it I should fix it at \$10,000 a year. There is nothing more important in the islands than the high character of that court.

The CHAIRMAN. Mr. Secretary, judges in the supreme court in New York receive \$17,500 per annum. Do you think that their duties are any more important than are the duties of the judges of the supreme court of the Philippine Islands?

Secretary TAFT. No, sir.

The CHAIRMAN. Does it require any more ability?

Secretary TAFT. No, sir; but that argument, however, would affect a good many other judges. But, Mr. Chairman, the difficulty in getting men suited to that position in the Philippine Islands is much greater than that of getting men for New York City.

The CHAIRMAN. I did not mean to imply they ought to pay \$17,500, but I only mention that as an illustration.

Secretary TAFT. Yes, sir.

Mr. OLMSTED. On the other hand, the salaries paid in Pennsylvania to the judges of the supreme court are \$7,500 each.

Secretary TAFT. Yes, sir.

Mr. OLMSTED. In what particular, except the inconvenience and the undesirability of going to the Philippines to live, is it more expensive to live in the Philippines than in Philadelphia?

Secretary TAFT. I think rents are higher considerably in the Philippines than they are in Philadelphia. Or do they always live in Philadelphia? Do they not live in Harrisburg?

Mr. OLMSTED. Part of the time in Philadelphia and part of the time in Pittsburg; a week or two in Harrisburg.

Secretary TAFT. There is this to be said about providing a lawyer of sufficient ability to justify his appointment to the supreme court of the islands, that he ought not to go out there without the expectation of staying ten or fifteen years. Unless you can count on his doing that, the Government loses a great deal by his preparation, by

losing the preparation and making necessary the new preparation of other candidates, because a man who goes on to that bench has a great deal to learn. Now, in order to induce a man to stay there ten years, he ought to have the opportunity to save something. The honor of sitting on the bench of the supreme court of Pennsylvania would doubtless lead many to sit there and spend more than their income, but when you go out to the Philippine Islands men look at it in a different way. Of course it is an honorable position; but they take their families with them, and they feel that those years are passing away during which they ought to be laying up some money; and I think we ought to give them a salary which will enable them to do so; at least, a salary which will enable them to get enough life insurance to save their families from need should they be carried off.

Mr. OLMSTED. Though the actual expenses of living were not greater than in one of the Eastern or Middle States, nevertheless, in order to get a good man to go there he would expect, and ought to be paid, more?

Secretary TAFT. Yes, sir. I do not share what I must admit is the popular feeling, that one in going to the Philippine Islands makes a great sacrifice. I think when you go to the Philippine Islands and live there and get comfortably settled in a house life is exceedingly pleasant. But I think lawyers who go there, of the type that you need, unless they save something, feel they ought to be at home.

Now, the rewards of the bar in Manila thus far have been very high, altogether too high, much too high for the standard of the lawyers that we have out there; but it was a case of the supply not being equal to the demand. I do not know of a place where a young lawyer of ability, who familiarizes himself with Spanish and the Spanish codes, can more rapidly accumulate a practice, if he maintains a high character and charges reasonable fees, than he can in Manila. And many of the lawyers that practice before the supreme court, American lawyers, have an income twice and three times and four times as large as the judges of the supreme court.

Mr. WARNOCK. Carrying out this same reasoning, the supreme court of Ohio takes a large part of their compensation in honor?

Secretary TAFT. I think they do.

Thereupon the committee adjourned until 10.30 a. m., March 17, 1904.



COMMITTEE ON INSULAR AFFAIRS,
March 17, 1904.

Hon. Henry A. Cooper, chairman, presiding.

STATEMENT OF HON. WILLIAM H. TAFT, SECRETARY OF WAR—
Continued.

Mr. ROBINSON. Mr. Chairman, on the matter that we left when we came to an adjournment yesterday—the proposed amendment by the Secretary of the bill permitting the Commissioners to fix the salaries of judges—I wanted to ask Secretary Taft if the provision giving to the Commissioners the right to fix the salary of the judges, coupled with the amendment you proposed, would not be an invitation to absenteeism, and it not being safeguarded and checked by any taking away from the salary of the incumbent who gets a fixed salary, whether it would not suggest possible abuse?

Secretary TAFT. There is a specific law as to the amount of vacation a judge can take. He is allowed two months every year, and every three years some additional amount to enable him at the end of three years to go home. There is a court vacation, in other words, every year during the hot season, from the 1st of May to the 1st of July. Then every three years he is allowed an additional vacation of three months, so that he may go home and spend two months at home and come back.

Mr. ROBINSON. Does that in any way open up or enlarge that right?

Secretary TAFT. No, sir. And you will observe also that I did not make provision that the person who takes the place should get any additional salary other than allowances for traveling expenses. Now, possibly provision might be made by which the absent judge should share with the holding judge—

Mr. ROBINSON. That is probably not necessary if not an enlargement of the original law.

Secretary TAFT. No, sir; it is not.

Mr. ROBINSON. I believe we have arrived now at the point of the mining laws on the bill if we want to follow it seriatim—

Secretary TAFT. There are one or two things I wanted to inject, if I may, before I get to that. I think I had explained our experience in that matter and that we were losing our good American judges.

Mr. CRUMPACKER. Would there be any objection to fixing a maximum allowance, say \$10,000?

Secretary TAFT. No; except that would be a suggestion—

Mr. CRUMPACKER. At the same time I think that if the committee should report this bill it would materially assist in getting it through the House.

Secretary TAFT. I would not have the slightest objection to that.

Mr. CRUMPACKER. You see an unlimited power of that kind would be subject to criticism in the House.

Secretary TAFT. Yes, sir.

The CHAIRMAN. I had noted on my bill a suggestion for an amendment.

Secretary TAFT. Not exceeding \$10,000; it is quite possible the Commission would not go to \$10,000. Judge Ide, who is the watchdog of our Treasury, comes from Vermont, and gentlemen from Vermont believe in small salaries.

Mr. ROBINSON. I think it highly improbable that Congress will surrender its right to fix the salaries of judges in the Philippine Islands.

The CHAIRMAN. It is getting to be more and more the policy of Congress not to leave to executive officers the expenditure of public funds in their discretion, except within prescribed limits.

Secretary TAFT. I have observed, if I may be permitted to say so, when Congress was in favor of a very large salary it did not want to expressly declare, it would leave the responsibility to the Executive to fix it.

Mr. CRUMPACKER. This bill rests the discretion in the Government; that is, legislative, executive, and judicial.

Secretary TAFT. Yes, of course; in all these matters, gentlemen, I am only making these suggestions as tentative, with the hope that some action may be taken.

Mr. CRUMPACKER. I regard it as quite important that we hear from Judge Taft on section 4 of the present bill. All the balance of the bill now is simply amendatory of the existing law, changing the American to metrical measures.

Secretary TAFT. Yes, sir; but there are one or two provisions I would like to introduce into the bill, amendatory of the existing law, which have come to my attention since the matter was presented in the form of a report.

Mr. CRUMPACKER. What is the necessity for making a change in system of measuring?

Secretary TAFT. It is a matter recommended strongly by the commissioner of the land office, or chief of the bureau of the land office, who is at the head of the mining bureau. I understand that there are inconsistencies in the act growing out of the fact that with respect to certain measures the metric system is used and with respect to other measurements the English system is used. Now, in the Philippines the metric system has always been used, except where other measurements have been introduced by this new legislation, and it would be wise to make it uniform, that is all. It is not a very important matter except to the officers of the land and mining bureau.

Mr. CRUMPACKER. It does bring some embarrassment, the fact that you have a complication of the two systems?

Secretary TAFT. Yes, sir. The original bill as proposed contained all metrical measurements, but you remember there were three or four gentlemen on the Senate committee from Idaho, Utah, Colorado, who were very familiar with mining laws, and who held long sessions and made the mining laws the chief part of the Philippine bill, really. And in introducing the amendments which they did introduce they failed to notice the necessity for uniformity in measurements. Therefore, the amendments are really unimportant in the change of distances, because the present amendments are substantially the same distances, only expressed in metrical measurements rather than the the English measurements.

I should like to recommend the adoption of an amendment to section 8 of "An act to establish a standard of value, and to provide for the coinage system in the Philippine Islands."

Mr. CRUMPACKER. That is not in this bill at all?

Secretary TAFT. No, sir.

Mr. CRUMPACKER. We have not copies of that law, have we, here?

The CHAIRMAN. Of the Philippine law?

Mr. CRUMPACKER. Of the coinage law.

The CHAIRMAN. That is in the Philippine act.

Secretary TAFT. This is the coinage law you passed last year. Haven't you that?

The CHAIRMAN. Yes; we have that here.

Mr. JONES. It is in this book (Committee on Insular affairs, House of Representatives, Fifty-seventh Congress, first and second sessions), entitled "An act to establish a standard of value and to provide for a coinage system in the Philippine Islands," on page 676.

Secretary TAFT. The next section should read as follows:

Section —. Section 8 of "An act to establish a standard of value and to provide for a coinage system in the Philippine Islands, approved March 2, 1903," is hereby amended by striking out the word "ten," in the sixth line thereof, and inserting in lieu thereof the words "one thousand," so that the treasurer of the Philippine Islands shall, under the conditions and restrictions in such section, be authorized to issue silver certificates therefor in sums of not less than two nor more than one thousand pesos.

We ask that in order——

The CHAIRMAN. Would you say in "sums" or in "denominations?"

Secretary TAFT. Well, in denominations. Probably that is the better term. Our idea is that under such authority the Treasury would issue notes for two, five, ten, twenty, fifty, one hundred, five hundred, and a thousand pesos. It greatly facilitates the interchange of money in the islands, because the registered mail can be used. Silver certificates are very popular there. They aid us to introduce the system and we would like to have a little more elasticity in the denominations. Possibly a thousand pesos is too great; but certainly we ought to have five hundred pesos.

Mr. CRUMPACKER. The currency reformers of the House would oppose seriously anything of that kind, I imagine, but the conditions are different there. You have no paper currency except bank notes?

Secretary TAFT. That is all; and we have very limited banking facilities, so that we should like to use the notes instead of drafts, really.

Mr. NEEDHAM. It would only leave it discretionary, anyway, with the Treasury?

Secretary TAFT. Yes, sir.

We should like to have power vested in the Commission to modify or repeal the tonnage tax imposed on vessels coming into the harbor of Manila. You will observe that the Commission itself adopted a revenue law; that is, a customs law, which included the fixing of a tonnage law tax and other impositions on commerce. Congress approved, you may remember, that customs law, just as it had been adopted by the Commission.

Mr. CRUMPACKER. I think that was in the Philippine——

Secretary TAFT. That was in the act of March 8, 1902.

MR. CRUMPACKER. In the Philippine revenue bill?

Secretary TAFT. Yes, sir. Now—

MR. NEEDHAM. We would not have jurisdiction in that matter, would we?

Secretary TAFT. Now, with the adoption by Congress of that, it became rigid, so we could not modify it; we had no power to do so. What we would like to have is power to modify the tonnage tax with view to encouragement of the coming into Manila harbor of large steamers from San Francisco, and to enable us to encourage large steamers to come from Hongkong and Singapore.

MR. CRUMPACKER. You would not want power to impose a discriminating tonnage?

Secretary TAFT. No; we would simply wish power to modify or repeal the tonnage tax under that act of March 8, because it is so that with a large steamer like the *Korea*, or one of the steamers of Mr. Hill's coming from Seattle, if it can only be sure of small tonnage in the harbor of Manila it does not come at all, because the tonnage tax is so much that it does not pay him to come.

MR. CRUMPACKER. Your system imposes a tax on capacity instead of cargo?

Secretary TAFT. Yes, sir.

MR. CRUMPACKER. So that if a big steamer could come into your port with a small cargo—

Secretary TAFT. And make it pay.

MR. CRUMPACKER. And make it pay. It discriminates against the large steamers?

Secretary TAFT. Yes, sir; and of course we are anxious to have as many calls at the port of Manila as possible. It would not affect our income greatly, and we are quite willing to reduce the income because of the benefit we would certainly derive by the frequent calls from a steamer.

MR. CRUMPACKER. What would you think of the policy of imposing a tax upon cargoes instead of upon capacity of steamers?

Secretary TAFT. That would be a good deal better. Then the question would be, the cargo which they are carrying through or the cargo which they are bringing.

The CHAIRMAN. Have you an amendment drawn in the form in which you would like to suggest it?

Secretary TAFT. I am sorry to say I have not. Because it did not occur to me until yesterday afternoon. One of the steamship officers, Mr. Swearin, of the Pacific Mail, came in and called my attention to that, and only enforced what we had already discussed in the Commission on the same general subject. Mr. Swearin, of course, was interested for his large vessels, the *Korea*, the *Siberia*, the *Manchuria*, and the *Mongolia*, and there are others who are very much interested by reason of the Hongkong-Manila trade. If any gentleman goes to Manila and does not strike a steamer that goes through and does not go to Hongkong first, and then takes the small vessel which plies between Manila and Hongkong over the shallow China Sea, he will be convinced of the necessity of doing something to enlarge the size of the vessels.

There is no sea in the world that is so rough at all times of the year as China Sea between Hongkong and Manila, because the direction which has to be taken throws the monsoon abeam. That is, six months

in the year the monsoon blows from the northeast and six months from the southwest, and the vessel has to run athwart (across) the wind so that it produces a very heavy motion. The vessel is in the trough of the sea a good deal of the time. If we can enlarge the vessels which are in that port it is to our great advantage. There are two comparatively large vessels in the Hongkong trade now—the *Rosetta Maru* and a similar name. The *Rosetta Maru* has the sobriquet of the “Rolling Rosie.”

The CHAIRMAN. Is that a Japanese vessel?

Secretary TAFT. She belongs to a Japanese company. I will submit an amendment in regard to the matter, and will send it to the stenographer.

Mr. NEEDHAM. If Congress should meet your expectation in this regard and abolish the tonnage tax and put one upon the cargo, would it be just to put it only upon that portion of the cargo that is discharged there?

Secretary TAFT. I should think it would be better, because what we want to do is to get as many calls as we can, and we do not want to interfere with the stoppage of a vessel there which may have a larger cargo for some other port. I would like, if possible, to place the imposition of the tonnage tax not exceeding 6 cents, say, as it is in the law, within the power of the Commission either to reduce or abolish. We have no desire to increase it at all.

Mr. CRUMPACKER. It is now 6 cents per ton?

Secretary TAFT. Yes, sir.

Mr. CRUMPACKER. If you put on a cargo tax you might want to increase it?

Secretary TAFT. Yes, sir; we might.

Mr. NEEDHAM. Especially if it only applied to that portion that was discharged?

Secretary TAFT. Yes, sir.

There is another section that ought to be passed, but I do not know but that it will meet opposition. I suppose it would seem to savor of “imperialism.” It is really a matter of convenience.

The CHAIRMAN. That would be a new section after section 10, then?

Secretary TAFT. Yes. A chief executive of the Philippine Islands is known as the civil governor. That title is an anachronism. It was all right when there was a military governor, and to distinguish the civil executive from the military executive the term “civil governor” was proper. Now there are 38 governors of provinces, and then there is the civil governor, and the term has no meaning. The term which they all understand out there, and which has a meaning, the governor-general, that is, the general governor over all, is the title which ought to be applied.

Mr. JONES. That was the Spanish title?

Secretary TAFT. The Spanish title was the “captain-general,” ordinarily. That referred to his military rank, for he had, ex-officio, as the head of the islands, the military rank of captain-general, and he was called, indifferently, “captain-general” or “governor-general.” For instance, on the china, such of it as is left in the Malacanan Palace, the china is marked “C. G. de Filipinas,” Captain-General of the Filipinos; but on a good many of the chairs which are there there is carved “G. G.,” which is “governor-general.”

The CHAIRMAN. That means general governor?

Secretary TAFT. That is all; it means the governor as distinguished from the governor of a province.

I have mentioned the mining laws, the only change in which is the question of the measurements, and now that brings me to where we have finished everything except section 4.

Mr. ROBINSON. Mr. Chairman, I think it appropriate at this time, and I want to make a line of inquiry, and I believe I can make a statement so that in the discussion of section 4 we can bring all matters out and do it concretely and save time, by suggesting that I would like to have what views Mr. Secretary has upon the subject of the future inhabitaney by the whites of the Philippine Islands.

Assuming that this is a tropical country, much lower than Hawaii, I assume it will be a country of vast landed estates, worked by cooly or that class of labor for fifty years or more; that the whites, by reason of the virulence of the bubonic plague, cholera, and smallpox, ever present and in epidemic form, and by reason of the health conditions there which require by the rule of the War Department the return of the soldiers after a stated period, and from the fact that the Philippine government is unable to keep school teachers there satisfactorily, it will never be a white man's country in any sense; and, possibly, that not 1 per cent of the entire people will ever be whites, and heretofore that possibly not more than 1 per cent of Manila's population, and no per cent outside of Manila before American occupancy. I make this statement, so that after the general features of section 4 have been gone over we might have some statements on that, because the Secretary's views will be very valuable, I think.

The CHAIRMAN. It strikes me, Mr. Secretary, that the discussion had better be deferred until we finish the bill. I suggest that we go over the railroad section and then take up the matter referred to by the gentleman from Indiana.

Secretary TAFT. I am willing to take it up at any time.

When the Americans came to the island they found one railroad there. That railroad runs from Manila into Bulacan, into Pampanga, into Tarlac, into Pangasinan, and ends at Dagupan, or Gulf of Lingayen.

Mr. OLMSTED. What is that distance?

Secretary TAFT. It is about 120 miles. There were no branches to the railroad.

Mr. NEEDHAM. Is that a broad-gauge railroad?

Secretary TAFT. Three feet 6 inches; that is a gauge that is sometimes called the "oriental gauge." It is a gauge that I believe is used in New Zealand. It is the gauge that was begun in India, but in India now they have only two gauges, the broad gauge of 5 feet 6 inches, and a narrow gauge of a meter (39 inches) instead of 3 feet 6 inches.

It was constructed under very precise regulations drawn by the Spanish engineers and enforced by the Spanish Government. They were obliged to put in very heavy iron bridges; they were obliged to put up a railway station in Manila that is large enough and heavy enough to be the railway station for a system of 1,000 or 1,500 miles. It is constructed of iron and steel. They were obliged to erect at every station station houses of brick, together with warehouses of brick, and there is an iron derrick—a revolving derrick—at every station, although the business at most of the stations did not warrant them at all, and, as a matter of fact, they are not used. They are

there, but not used. The result of this method of construction was that quite a large amount of money was wasted—that is, the cost of the road was made to exceed what it ought to have cost.

The contract, or the concession, provided that the Spanish Government would guarantee to the English company (for it is an English company) 8 per cent dividends from the \$5,000,000 capital which it was thought would be used in the construction. As a matter of fact, they say that it cost them eight or nine millions of dollars. I do not know how that is. That was the guaranty of the Spanish Government, at any rate. After we went there, there was a strongly founded suspicion that the railroads were being used for the benefit of the insurgents. I suppose the truth was that the manager of the railroad, who was an Englishman, or rather an Irishman, was trying to preserve his property and he was negotiating with both sides for the purpose of doing as little with either side as possible and still saving the property. He did not save the property; at least, after the insurgents had been driven down the line they destroyed what bridges and rolling stock they could destroy. Then the government took charge of the railroad and itself ran the railroad for about a year, or nine months of a year, and then turned it over to the company again.

The company has presented to the Government of the United States a claim, first, for rent and occupation of the railroad; second, for the payment of the guaranty during the period when they were receiving no income, and third, for damages done to the railroad while the railroad was in the custody of the United States authorities. Those claims have never been settled. The law adviser of the Department and the Attorney-General have ruled that the Government of the United States and the Philippine government are not responsible for the guaranty of the Spanish Government; that that is a personal guaranty; that there may be (this the Attorney-General intimated—Judge Magoon, of the War Department, did not follow him in that) some sort of equitable liability on the part of the provinces through which the railroad passes to contribute a part of the guaranty, but how that is to be enforced and how it is to be reached I confess I am not able to state. As a matter of fact, we never have recognized it and never have paid it. Without prejudice to these claims, the Commission, under the power which was given it by the Congress of the United States, granted to this English company two franchises for the construction of a railway from about this point [indicating] 34 miles into this region of Nueva Ecija, and from Manila directly eastward into the mountains or foothills. I think it is about 17 miles, immediately east of Manila.

MR. LANNING. The first one extending, Mr. Secretary, from a short distance from the north of Manila still farther north?

SECRETARY TAFT. The first one running from a point called Bigaa, 34 miles through San Isidro, which is the capital of Nueva Ecija, to Cabanatuan. Then there were two branches authorized by the railroad company for the convenience of the military. There was a branch a mile long at Bautista leading to a military camp and a branch 5 miles long at Angeles leading to another military post. Those concessions were made in the ordinary form of concession for American railroads. There was no agreement to guarantee dividends, but they were to construct the roads and run them at rates to be fixed by the legislature.

Mr. SMITH. They all connect, Mr. Secretary, with the main line?

Secretary TAFT. With the main; yes, sir. Part of all the branches have now been constructed; I think 10 miles of the Cabanatuan branch and perhaps 7 or 8 miles of the Antipolo branch. At a point in the foothills just east of Manila, 17 miles, is Antipolo. And the two military roads to Bautista and Angeles have been fully constructed.

Secretary Root was very much interested in securing American capital for the construction of railroads in the Philippines. He conferred with a number of gentlemen whom he thought he could interest, and among others Sir William Van Horn, connected with the Canadian Pacific Railway, but who had constructed the Cuban Railway from Habana to Santiago—I think it is. His experience in tropical railroad building he thought was valuable. But he said he was too much occupied in Cuba; that he could not himself make an original investigation, but that if we would send men whose opinions he valued he would recommend to us to make a report, and that report might be published, and if he subsequently took an interest he would be willing to pay the expenses of the engineers. We concluded we would simply send those engineers and pay them ourselves, which we did. That report on the general subject of railroads in the Philippines you will find in the volume which I have ordered sent to each member of the committee. I do not know whether they have come or not.

The CHAIRMAN. This is Part I.

Secretary TAFT. If you will let me take that I will refer to the report [referring]. It is Exhibit P, on page 399, Mr. Chairman, of this volume, a copy of which I have ordered sent to each member of the committee. Now, Secretary Root thinks, and it is possible, we made a mistake in granting the franchise from 25 miles north of Manila on the main line to Cabanatuan and up into Nueva Ecija, because it will possibly prevent other companies from going in to construct lines from here, paralleling the Manila line, or part way, and then running up into the mountains here and down the Cacayan Valley to Aparri, which is one of the trunk lines recommended by Norton & Drew. Cabanatuan is about here [indicating] in Nueva Ecija.

The CHAIRMAN. How far from Manila?

Secretary TAFT. It is about 55 miles from Manila, perhaps 60. Then, as you go north from that point, you have to go through the Caraballo Pass, which is a pass from 2,500 to 3,000 feet high, and then through Nueva Ecija until you strike the valley of Cacayan River, which is the richest valley in all the archipelago. That is the valley in which tobacco is grown in such excellence and to a greater extent than anywhere else in the archipelago; but the valley is very sparsely settled, and a railroad constructed there must depend upon building up the country itself in order to make it a profitable enterprise. Norton & Drew also recommend the construction of a line from Dagupan north on this—you will observe here is a mountain spine on the west [indicating] and there is a mountain spine on the east. They recommend a railroad north from Dagupan and west of the western mountain spine along the seashore clear up to Laoag. That is very thickly populated, and, on the whole, the population is the best industrial race in the island.

There is no railroad to the south of Manila, but there is a most important highway, or rather a communication, by means of the lake

to Calamba and then from Calamba through the province of Batangas down to the town of Batangas on the bay of Batangas and Laguna, Laguna being the province on the lake; and they are ordinarily very rich and highly cultivated provinces and ought to be reached by railroad. The English company has been anxious to secure the franchise for the Batangas line, but we have not been willing to grant it. The complication of the presence of the English company is one which we should be very glad, if we could, to eliminate. And I have talked with Mr. Scott, who is the president of that company, with a view to seeing whether they are willing to sell out to any company that might undertake a general improvement in the islands. I think they are. I think they are willing to sell out or make an arrangement with one banking firm, Speyer & Co., and they would prefer to deal with Speyer & Co. because Speyer & Co. have a branch in London. I should be glad if Speyer & Co. had the concession on proper terms. But I do not think it fair that Speyer & Co. should receive, in the question of deciding who should get the concession, an advantage because of their relation to the English company.

It seems to me that the English company ought to be willing, if it is going to sell out, to sell out to any concessionaire of the government on the same terms. But you can see the complications that will arise in awarding concessions to various capitalists unless we can eliminate the English company. It would be greatly to the advantage of everybody. I think, if the person receiving the concession in the islands, as to Luzon at least, should have control of the English company, because with the property of the English company it would be much more profitable for it to branch out in other directions. It would not be subject to the squeezing competition of the English company with its line right in the middle of Luzon.

I visited New York last week, or week before last, and held a conference with a number of capitalists who seemed to be willing to go into the enterprise if they could be assured of Government aid in the form of a guaranty. That is, of course, a form of aid that presents difficulties, as every form of aid from the Government does. The history of railroads in the English, and, so far as I am advised, in the French colonies, is that they have been begun by Government guaranties of income upon the amount invested, and that after ten or fifteen years of construction of works under such contracts the Governments have themselves built the railways. Now, if Congress prefers to have Government-constructed railways, well and good. I suppose the Commission will undertake the work. Personally, I think it is greatly better to fix exactly the limit of the liability of the Government and trust the work to private enterprise, because if you have railroads constructed by the Government it means a tremendous enlargement of the personnel of the Government employees.

It adds greatly to the routine and burden of government, and I am afraid that it will add greatly to the cost of the Government, because I believe that private enterprise can manage railroads much more economically than they could be managed by the Government. I have referred to Luzon only; and I have not completed my reference to Luzon. You observe this boot [indicating on map] that runs east from Batangas, including Tayabas and Ambos Camarines, Albay, and Sorsogon. Albay and Sorsogon, and the southern part of Ambos

Camarines, are to-day the most extensive hemp-producing provinces in the islands. In Albay it has not been an uncommon thing at all that carabao carts with two carabaos have rented for \$40 Mexican a day for transportation; many fields of hemp have been allowed to rot because of the lack of transportation; and I feel reasonably certain that the construction of a railway from the Legaspi around the volcano of Mayon to Tabaco, and then up to Nueva Caceres in Ambos Camarines, and down to Pasacao, a seaport on the China Sea, the hemp could be delivered here, and carried directly from there to Manila, instead of having to be hauled in carts from the mountains to Legaspi and then down through the San Bernadino straits and up this way to Manila. And that railroad would probably pay from the beginning, because it will supply a want that has long been felt.

That railroad, however, could hardly be carried on clear up to Batangas, because it would involve some very serious engineering difficulties in the mountains here; and it would be much cheaper to ferry, so to speak, by steamer from here to Manila. But with this railroad in the hemp district; with the railroad from Manila to Batangas and branch around to Cavite, and possibly a branch up through the capital of Leguna; the railroad as it is now to Dagupan, from Dagupan north to Laoag, and a railroad running up this valley through the Caraballo Pass and down the Cagayan River to Aparri, would probably give all the railroad facilities that are needed; at least all the facilities that ought to be aided by the Government. I think after that the construction of railroads would follow naturally and would follow the needs of the public. If those railroads were constructed in Luzon it would revolutionize the business of agriculture there.

The CHAIRMAN. What, in your opinion, would be the aggregate mileage that you have just indicated? Can you approximate it?

Secretary TAFT. Well, it is somewhere between 700 and 1,000 miles, I think, Mr. Chairman. I think about 750 miles, but I am not sure. Sir William Van Horn calculates that the cost of it would be about \$35,000 a mile. I think that is a moderate estimate. I would be surprised if it cost more.

The CHAIRMAN. \$30,000,000 would cover it?

Secretary TAFT. Yes, sir; I think possibly \$25,000,000 or \$30,000,000. Railroads in other oriental countries have cost somewhat more than that, but Sir William Van Horn's estimate is based on his experience in Cuba, where he thinks the conditions are very like those that prevail in the Philippines.

Mr. ROBINSON. Does the Van Horn statement include also the stock and equipment?

Secretary TAFT. I believe so; yes, sir.

The CHAIRMAN. Four per cent on the \$25,000,000 would be a burden of only \$1,000,000 annually on the Treasury?

Secretary TAFT. Yes, sir.

The CHAIRMAN. Could the Treasury handle that easily?

Secretary TAFT. Yes, sir; we could handle it with the increase of business that would follow.

The CHAIRMAN. The increased value of property there would be to tax, too?

Secretary TAFT. Yes, sir; but the increase in the export and import business, which affects directly the receipts from customs, would be very largely increased.

Now the question of what the form of authority should be. I discussed with everybody—

The CHAIRMAN. Just one moment. Mr. Secretary, do you think the guaranty of interest on the investment is preferable to our old land-grant system?

Secretary TAFT. Yes, I do; very much. I think it is a great deal better that the Government should know the limit of what it is giving rather than that it should give something which may become very valuable without its realizing what it is parting with.

The CHAIRMAN. The increased value of the land you would retain for the people?

Secretary TAFT. Yes, sir.

Now, I have here Ways and Works in India, by G. W. McGeorge, in which he describes the railways in India. They began with the guaranty system—that is, guaranteeing interest on money deposited in the treasury of the Indian government, which was expended under the supervision of the Indian government by the private owners for the construction of railways. There are various forms of guaranty, the variety being due to the method by which the money which is paid out by the government is returned to it. A provision in many of the guaranties in India was that the 5 per cent which was there allowed of the net earnings should be first applied to the dividends which were due under the guaranty. Second, everything over 5 per cent was to be divided, 50 per cent to go to the stockholders and 50 per cent to reimburse the government for any previous advance guaranty growing out of a possible deficit, and in that way the government was made whole.

Another method that is suggested is that the guaranty should be 5 per cent instead of 4; that 1 per cent of the 5 should be used as a sinking fund to create a fund to reimburse the government for any loss which it may sustain during the period of the guaranty, whether you make it thirty or forty years or fifty years, would reimburse the government for the amount of money which it should be held to for the guaranty. Now, with many of the railroads constructed here, the government would not be called upon to make good a guaranty at all, I feel confident. For instance, suppose it were to guarantee 5 per cent of this railway in Albi. I have no doubt there would be no liability under that guaranty arising, but the railroad running from Cabanatuan, the end of the branch to which I have referred, through the Caraballo Pass and down the Cagayan River to Aparri, the government might have to pay that guaranty for ten or fifteen years, because that railroad, though very important in the development of the islands, runs through a country that is not now inhabited (I mean not thickly inhabited), and oriental railways depend much more upon passenger traffic for their dividends than do the western railroads.

Oriental railroads generally depend for their receipts, 60 to 66 per cent, upon passenger traffic and 34 to 40 per cent on their freight receipts, because the orientals are great travelers. They like to go fast, and they are willing to waste a good deal of money. A Filipino will take two chickens to Manila and use the price that he gets for the chickens in going and coming just for the pleasure of the railroad ride. Of course we hope to build up a freight traffic, but there is that difference between the oriental and the western railways. Now, the question of how far you are willing to leave this matter of guarantee

to the discretion of the Commission is an important one. I have attempted to explain the complications of the situation. Of course the Commission in the awarding of concessions must be certain that the concessionaire is able to do the work. We could let concessions on very favorable terms to gentlemen who say they have had experience, and that they can get the capital; but what it means is that we are granting a concession to them to paddle around and secure capital after the concession is granted. That kind of concession we are anxious to avoid granting. We think it ought to be granted to some responsible firm who has money at hand to do the work should they enter into the contract.

Whether competition in the form of advertising for rates ought to be inserted as a limitation upon the power of the Commission is one, of course, for the committee and House to determine. Personally, I should prefer that it be not inserted as a requirement; not that I do not think it would be used, but that I should dislike to restrict the discretion of the Commission. You already give us unlimited power to grant concessions in the Philippine act, unlimited except it may be that we have no power to make guaranties. The law officer of the War Department has given an opinion that we have such power, but the Commission is not willing to exercise it without the express approval of Congress. When we came to grant the concession for the street railway in Manila, the history of that concession was this: A gentleman came to us and said he represented a syndicate of capitalists who would be glad to have the railway concession. Well, we asked him to prepare the form of concession that he thought suitable. He did so, and submitted it. We advertised that form and had a public meeting and discussed with everyone who came from the city of Manila and elsewhere the form that the concession ought to take.

After very ample discussion, which lasted some two or three weeks, we got the franchise in such form as we thought reasonable for the public, leaving blank the term of the concession, the percentage of the gross receipts that should be paid to the public by the concessionaire, and the rate of fare to be paid. Then we said to the applicant, "Now, you say that nobody will bid but you;" and he wanted to close the matter at once. We were not certain that we could get anybody else. The truth was that there was not such eagerness on the part of capitalists to come there to justify our hopes that others might come. But we said to him, "Congress under the Philippine act has, necessarily, the power to take away your charter, if you get it, if it seems to be unfair, and if it seems that you are getting too good a thing. It is therefore of as much benefit to you as it is to us to have the franchise in the form in which it is now agreed upon, advertised, inviting bids upon the three varying terms of the franchise. It will take three or four months. It will have to be advertised in New York, Chicago, San Francisco, and in Manila, but you can well afford to wait that time, because, if after that advertisement you get the franchise, it would be wholly contrary to American traditions, wholly contrary to any action of Congress, to take away from you that which has been given by competition."

So the advertisement was made, and there was only one bidder. My impression is, it was not the original applicant; at least, there was some variation in the syndicate which took it. I judge so from the complaints of the promoter who came to us first. There seemed to be

some change; at least, he did not get the share he was expecting in the new company. However that was, the Commission exercised its discretion in that way, and the Commission will be disposed, if opportunity offers, to exercise the discretion given under such a clause as this in the same way—by competition—if possible; but I think the committee can see that, in view of the complications of the situation, it might be difficult to state a concession in such a way as to invite a bidding on particular terms.

The CHAIRMAN. That concession was for the electric railway system complete in Manila?

Secretary TAFT. Yes, sir.

The CHAIRMAN. When is that to be finished?

Secretary TAFT. On Thanksgiving Day of this year.

Mr. PATTERSON. Has American capital built that?

Secretary TAFT. Yes, sir; so I am advised. The concessionaire is Charles Swift, of Detroit, a street railroad man of that city, and the contracting company—I mean the company that has made the contract for the construction with him—is J. G. White & Co., of New York.

Thereupon the committee adjourned.



ABROGATION OF THE AGREEMENT COMMONLY KNOWN AS THE BATES TREATY.

COMMITTEE ON INSULAR AFFAIRS,
HOUSE OF REPRESENTATIVES,
Monday, March 21, 1904.

The committee met at 10.30 o'clock a. m., Hon. Henry Allen Cooper in the chair.

The CHAIRMAN. While we are waiting for Secretary Taft we will take up the proposed substitute bill introduced by Judge Crumpacker (H. R. 13923).

The committee proceeded to a discussion of the bill (H. R. 13923) introduced by Mr. Crumpacker, of Indiana, entitled "A bill confirming the action of the President and Secretary of War abrogating the agreement commonly known as the Bates treaty," which is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the action of the President and Secretary of War taken on the second day of March, nineteen hundred and four, unqualifiedly abrogating the agreement entered into between Brigadier-General John C. Bates and the Sultan and certain datos of the Sulu Archipelago on the twentieth day of August, eighteen hundred and ninety-nine, and commonly known as the Bates treaty, is hereby confirmed.

STATEMENT OF HON. WILLIAM H. TAFT, SECRETARY OF WAR.

The CHAIRMAN. Mr. Secretary, we have been discussing the question of the abrogation of the Bates treaty in connection with Judge Crumpacker's bill. Will you please read the bill aloud, Judge Crumpacker? There is a dispute as to your position on this question of abrogation by Congress, Mr. Secretary.

Mr. Crumpacker read aloud the bill referred to.

Mr. LANNING. I would like to say before the Secretary of War expresses his judgment on the bill that at the proper time I desire to move an amendment, if the matter goes so far, by striking out from the title the words "commonly known as the Bates treaty" and inserting in lieu thereof the words "entered into between Brigadier-General John C. Bates and the Sultan and certain datos of the Jolo Archipelago on the 20th of August, 1899." I want to avoid the use of the words "Bates treaty," and instead of "Sulu" I want to make it read "Jolo Archipelago." In the Bates treaty the words used are "Jolo Archipelago." I will make that change in the body of the bill, and then in lines 8 and 9 strike out "and commonly known as the Bates treaty," so that it will read—

"That the action of the President and Secretary of War taken on the 2d day of March, 1904, unqualifiedly abrogating the agreement

entered into between Brigadier-General John C. Bates and the Sultan and certain datos of the Jolo Archipelago on the 20th day of August, 1899, is hereby confirmed."

Mr. CRUMPACKER. What is the proper name of the archipelago, in your legislation, Secretary Taft?

Secretary TAFT. The town is called Jolo by the Spaniards, but the Spaniards always call the archipelago and the sea the Sulu, although the names are supposed to be the same. So that General Davis, who is my authority on most of those geographical subjects, refers to the sea as the Sulu Sea and the town and the island as Jolo.

Mr. LANNING. In the agreement, as you will see by looking at it, the expression Jolo Archipelago is used.

Mr. PATTERSON. I think the Sulu Archipelago is broader than the Jolo Archipelago, and that this question of slavery exists in the whole Sulu Archipelago.

Secretary TAFT. Yes.

Mr. LANNING. Probably that is true; but I think our language should conform to the language that is in the agreement itself. That was my idea.

The CHAIRMAN. Now, Mr. Secretary, the motion is on reporting the Crumpacker substitute.

Secretary TAFT. And you asked me what the effect of this is?

The CHAIRMAN. Yes; and what your idea is.

Secretary TAFT. I think the effect of this would be to give personal sanction of the abrogation with all the authority that Congress has to abrogate it, and therefore that the confirmation would be stronger than the original abrogation, in that Congress has the power to abrogate without reason, and we had only the power to abrogate for a reason. I do not mean to say that Congress would not by this also assert what we have asserted, namely, that there was reason for this, that it is a ratification of our action as a proper one; but if Congress abrogates it, as it does here, there is nothing to be said after that. In other words, it is stronger, and it would be more useful, it seems to me, to have it pass than not to have it pass just as it is.

Mr. WILLIAMS, of Illinois. As a lawyer, let me ask you this question: This matter was submitted to Congress some time ago?

Secretary TAFT. Yes; for its action.

Mr. WILLIAMS, of Illinois. Now, I will ask you if in view of the fact that Congress has taken no action until it is reported that the conditions of the treaty have not been complied with, and then simply ratifies the action of the executive department in abrogating the treaty for the reason that those conditions have not been complied with, would it not be a natural inference that Congress did not object to the treaty or to the treaty remaining in force so long as the other parties complied with the conditions?

Secretary TAFT. Yes; I understand it—

The CHAIRMAN. I want to call the attention of the Secretary to the fact that the substitute does not mention the reasons.

Mr. WILLIAMS, of Illinois. No; but we simply review the action of the President, which is based upon the failure to comply with the conditions.

Mr. JONES, of Virginia. Not because it was originally bad, but because they would not comply.

Mr. KINKAID. But we do not ratify the President's reasons—we ratify the act.

Mr. WILLIAMS, of Illinois. If we show no reasons of our own, we adopt his.

Mr. JONES, of Virginia. But pardon me. I understood from the testimony of the Secretary of War some time ago that we did have to have reasons and that he was making up a record on which to base——

Mr. WILLIAMS, of Illinois. There is no trouble to get an answer from the members; what I wanted was an answer from the Secretary.

The CHAIRMAN. If the Secretary will permit me to say one word (the Secretary has not heard this discussion). As I understand it, there is no reason why the Congress of the United States may not now abrogate the Bates agreement as of prior date. It has complete power in the premises.

It may ratify the act of its own executive without giving any reasons. To agree in a conclusion may not mean to agree with the reasoning by which it is reached. The justices of the Supreme Court not infrequently concur in a decision but disagree on the reasons which justify it.

Secretary TAFT. I should say, as a proposition of law, that if the agent has the power to abrogate an agreement which is in existence subject to the approval or disapproval of the principal, and that the agent abrogates the agreement as an existing agreement, for a reason sufficient to abrogate it, and the principal comes along and confirms his abrogation of that agreement, that that confirmation would be given effect even although the reason of the agent was not a good one.

Mr. WILLIAMS, of Illinois. I agree to that proposition; we all agree to that.

The CHAIRMAN. That is this case exactly.

Secretary TAFT. And therefore I think this resolution thus stated is useful in that it relieves our position as to any investigation whether our position was right.

Mr. JONES, of Virginia. I would like the Secretary to answer Mr. Williams's question.

Secretary TAFT. You mean as to whether this is a confirmation which would abrogate, whatever the reason?

Mr. WILLIAMS, of Illinois. Let the stenographer read the question.

The stenographer read as follows:

Mr. WILLIAMS, of Illinois. As a lawyer, let me ask you this.

This matter was submitted to Congress some time ago.

Secretary TAFT. Yes; for its action.

Mr. WILLIAMS, of Illinois. Now, I will ask you if, in view of the fact that Congress has taken no action until it is reported that the conditions of the treaty have not been complied with, and then simply ratifies the action of the Executive Department in abrogating the treaty, for the reason that those conditions have not been complied with, would it not be a natural inference that Congress did not object to the treaty or to the treaty remaining in force, so long as the other parties complied with the conditions.

Secretary TAFT. I think it would be a dangerous doctrine, although in some cases quite useful, if it could be said that Congress approved everything that was submitted for its approval and failed to approve or disapprove—failed to take any action upon. I think the ordinary rule of public policy is that failure to act, or—using the term with deference—neglect on the part of Congress, does not bind it to any

position at all. Therefore, I should say that a failure to act did not affect in any way the status of the treaty.

MR. WILLIAMS, of Illinois. But I am assuming, Mr. Secretary, that we are acting at this late date, and acting for other reasons than those that we would have acted upon at first.

Secretary TAFT. Assuming that premise—that the failure to take any action at all does not commit Congress one way or the other—the question then arises, What is the inference to be drawn from its act in permitting what the Executive has done? The Executive has abrogated the treaty or it has not, according as the reasons which it gives are correct or not. Now, Congress comes along and confirms that action without being obliged to give reasons. I should say that to infer from that that Congress approved the treaty at any time would be a violent assumption; it strikes me that way.

MR. JONES, of Virginia. Let me ask you a question. You agree that Congress has the absolute right to abrogate this treaty without reference to whether or not the Sultan and certain datos have violated its terms?

Secretary TAFT. Yes.

MR. JONES, of Virginia. You agree that the executive department could not abrogate the treaty save upon a record made up showing that the treaty had been violated by the other parties to the treaty?

Secretary TAFT. Without respect to the record, without the existence of facts justifying that action—

MR. JONES, of Virginia. Without the existence of facts justifying that action?

Secretary TAFT. Yes, sir.

MR. JONES, of Virginia. Now, Congress has never—

The CHAIRMAN. There is a question of privilege before the House on the floor, and I think we will have to adjourn at this point.

MR. JONES, of Virginia. If you can wait long enough to get this answer. We are right in the midst of a question.

Secretary TAFT. Mr. Chairman, were not the volumes of our reports delivered here, one for each member of the committee? In my testimony I refer to the particular exhibit; I think it is Exhibit L.

Thereupon, at 12 o'clock, the committee adjourned.

COMMITTEE ON INSULAR AFFAIRS,
Wednesday, March 23, 1904.

The committee met at 10.30 o'clock a. m., Hon. Henry Allen Cooper in the chair.

STATEMENT OF HON. WILLIAM H. TAFT, SECRETARY OF WAR—
Continued.

The CHAIRMAN. Mr. Secretary, when we concluded at the last meeting you were discussing the section of the bill relating to the proposed construction of railways?

Secretary TAFT. Yes, sir. May I go back one moment to offer what I do not think I formulated at the previous meeting, a section authorizing the Commission to repeal the existing provisions respecting tonnage dues? I merely asked such an amendment, without formulating it, and I have had it drawn and will read it:

Sec. —. That the Government of the Philippine Islands is hereby authorized and empowered to modify or repeal the existing provisions respecting tonnage dues on vessels entering ports or places in the Philippine Islands, as set forth in sections 14 and 15 of act No. 230, enacted by the Philippine Commission on September 17, 1901, entitled "An act to revise and amend the tariff laws of the Philippine Archipelago," which said act was ratified and continued in force and effect by act of Congress approved March 8, 1902, entitled "An act temporarily to provide revenue for the Philippine Islands, and for other purposes."

I now come, Mr. Chairman, to the question of section 4. We think it is sufficiently established that capital will not come into the islands for the construction of railroads in sufficient amount really to develop the islands unless there be some government aid offered. The Government has perhaps 50,000,000 acres of land that it might offer, but the Commission has thought that Congress was indisposed to allow the ownership of very large quantities of land, which would be the result of land grants, to railroads along the line of the constructed route, and that perhaps Congress felt, as the Commission does, that the granting of such lands was giving a "pig in a poke," the value of them wholly incapable of estimation, and that it was much better if there was to be government aid that the amount of the aid should be known in advance. We feel that the government could bear the burden of \$1,000,000 to \$1,500,000 a year.

The CHAIRMAN. The government of the Philippine Islands?

Secretary TAFT. Yes, sir; a contingent liability if we would invite the construction of railroads in the island of Luzon. Indeed, it is quite probable that were the authority given to make the guaranty it should reach a contingent liability of \$1,500,000 in the Philippine Islands, that not more than one-third of that amount would be used in Luzon, and that the rest might be used in other islands in the archipelago.

I think I have already described to the committee the proposed railroad routes in the island of Luzon, but there are short railroads which would be of the utmost importance in developing the islands, which might be constructed in other important islands, like that of the island of Panay, in which is Iloilo; the island of Cebu, which has inhabitants numbering between 500,000 and 600,000; the island of Leyte, which is just one mass of hemp lands, and so possibly the island of Samar and the island of Mindanao.

Mr. CRUMPACKER. Section 4 provides—

Secretary TAFT (interrupting). May I say that section 4 was hastily drawn?

Mr. CRUMPACKER (continuing). Section 4 authorizes two methods of assistance—one by guaranteeing bonds and the other guaranteeing an income on the capital invested?

Secretary TAFT. Yes, sir.

Mr. CRUMPACKER. I understand from your remarks that you think the latter is the preferable plan of assistance?

Secretary TAFT. I do. It is a matter, however, of discretion, an experiment that I thought might be left to the Commission.

Mr. CRUMPACKER. How would you fix the basis of cost on which the guaranty should be paid?

Secretary TAFT. Capitalists in New York object to fixing in the act of guaranty what I put in there.

Mr. CRUMPACKER. I think you are right in putting it in.

Secretary TAFT. But it seems to me that it is wiser to say in advance to the capitalists, "This may cost this much and we will help you to this extent, and if it costs any more you must go on and complete it at your risk."

Mr. CRUMPACKER. I presume your act of guaranty would provide the guaranty of a net income upon the amount of capital actually invested, not exceeding a fixed sum, or would it be an arbitrary sum?

Secretary TAFT. I think it might say not exceeding a fixed sum, but I think the Commission might very well send its engineers over the line and say, "This line ought not to cost more than \$35,000 a mile. We will guarantee on \$35,000 a mile the payment of the percentage which the Commission should reach within the limit of the act."

Mr. CRUMPACKER. Practically all the commercial towns in the Archipelago are on the seacoast?

Secretary TAFT. Yes, sir; but there are some manufacturing towns, and some of the best are in the interior. The town of Lucban, in Tayabas, which is about 1,500 or 2,000 feet high, is a very good town. Then there is the town of San Isidro, which is also a very good town, far from the seacoast, about 35 miles from the present railroad and near the branch that we have already authorized. Generally speaking, the good towns are on the seacoast.

Mr. CRUMPACKER. You have cheap transportation from the seacoast down to Manila and the other large centers of commerce?

Secretary TAFT. Yes, sir.

Mr. CRUMPACKER. So that means of transportation would still be employed if the railroads were constructed?

Secretary TAFT. Yes, sir.

Mr. CRUMPACKER. It would be cheaper doubtless than the railroad rates?

Secretary TAFT. It would with this exception, that the winds blow with so much regularity and severity during six months of the year that the towns without land-locked harbors that have only sea communication are separated from the rest of the world those six months. For instance, the towns on the east coast all the way down, with the exception of those which have harbors, all towns on the east of Mindanao, the towns on the east coast of Samar, and the towns on the east side of Luzon, are practically separated from Manila and the rest of the world during the time when the northeast monsoon blows. To come to a little more concrete illustration: We were discussing the other day the construction of a railroad from Dagupan [indicating on map] up to here—Laoag, in Ilocos Norte [indicating on map]. While the southeast monsoon blows it is practically impossible to land anywhere north of the capital of Union, San Fernando. You can get in there behind a little cape, but with that exception all this coast [indicating on map] is not to be reached except by roads, in the southwest monsoon.

Mr. CRUMPACKER. I asked the question with a view of ascertaining what—

Secretary TAFT (interrupting). What benefit the railroad would be?

Mr. CRUMPACKER. Yes, sir; and the prospect of its paying any dividend at all on the investment.

Secretary TAFT. Yes, sir.

Mr. CRUMPACKER. If there could be cheaper transportation by water and the facilities are sufficient, of course it would materially affect the prospects of a railroad being a paying institution?

Secretary TAFT. Yes, sir. Here is the city of Manila [indicating on map] and here is the city of Dagupan [indicating on map]. There is water transportation from Manila clear around to Dagupan, and you can get over the bar once every twenty-four hours at Dagupan, but that does not at all interfere with the business done over the railroad between Manila and Dagupan. The regularity of communication is really what determines the profitable method of communication.

Mr. CRUMPACKER. In your opinion, will the provisions of section 4 embrace electric roads? What do you think of the expediency of constructing electric roads?

Secretary TAFT. I believe they might very well be built; I think they ought to.

Mr. CRUMPACKER. Do you not think that section 4, if it is not broad enough to cover electric lines, should be made so?

Secretary TAFT. Yes, sir. They are very much cheaper of construction, and of course electric lines are frequently built along highways where they do not have grading to do. Nevertheless, there are electric roads of which we should have a guaranty. The electric road which we count so much on, which runs from Dagupan up to Bagnio, in Benguet, from the uncertainty of the traffic that road requires that the government should aid it in some way or secure an income for several years until the capital can be built up and until a brigade post can be constructed so that there will be business.

Mr. CRUMPACKER. And then lateral lines from the steam lines may be extended to the commercial lines?

Secretary TAFT. Yes, sir. We are counting greatly on the use of electric roads, because in some parts of the islands we hope there will

be a very constant supply of water power. Coal is so expensive that it seriously interferes with the profits from steam railroads.

Mr. CRUMPACKER. One other question, and that is the labor question. I read the report of Mr. Norton, and he seemed to be rather skeptical or pessimistic about labor conditions.

Secretary TAFT. Yes, sir.

Mr. CRUMPACKER. He says he bases his estimate of expense of cost of the railroads upon Chinese labor, I think; that he would not undertake to say that the lines he has examined could be built for the money he has estimated with native labor. What is your opinion?

Secretary TAFT. I think Mr. Norton's view upon that subject is not to be trusted, because I think he did not have sufficient data upon which to give his judgment. I have been talking with Sir William Van Horn, who had a very large experience in Cuba. He said he would not build a railroad in a tropical country like Cuba or the Philippines except with native labor and he would not build it by contract; that he would build it by administration of the railroad. He says it is somewhat more expensive, but the building of a railroad by men who are charged with the responsibility of cultivating the good will of the inhabitants is both for the railroad and for the government under which the railroad is constructed, of the utmost importance. He says that his railroad in Cuba by building not by contractors but by administration of the railroad has made it popular from one end of the line to the other.

The CHAIRMAN. Please explain what you mean by building "by the administration of the railroad."

Secretary TAFT. I mean that the railroad itself hires the laborers and appoints the agents, and does the work through agents rather than through independent contractors. He says that he is not in the slightest degree frightened by the Norton report on the subject of native labor; that native labor needs instruction and that is one of the advantages of introducing railroad work; that the natives are taught how to work and that it is entirely feasible to teach them.

Mr. CRUMPACKER. Railroad building is hard, muscular labor?

Secretary TAFT. Yes, sir.

Mr. CRUMPACKER. Do you think the natives there have the will power, the moral force, to undertake and follow that kind of labor?

Secretary TAFT. I am very confident of that. I do not think railroad labor is any harder than quarry labor, do you?

Mr. CRUMPACKER. Perhaps not.

Secretary TAFT. At the mouth of Manila Bay we are employing in quarrying stone for the Manila port works 1,000 men, and if you will look in the report, I think it is copied in my report, you will see a statement by Mr. H. Krusi, vice-president of the Atlantic, Gulf and Pacific Company, as to his success with labor.

Mr. CRUMPACKER. I read that, and I noticed the statements of officers at the naval stations.

Secretary TAFT. That is as to skilled labor?

Mr. CRUMPACKER. Yes, sir. It was very gratifying to me. I have always been skeptical about the labor question in the archipelago.

Secretary TAFT. You will find, if you consult the persons who live in Manila and have employment for 10 or 15 people, perhaps 20, that they are as severe as possible in their condemnation of the Philippine labor, but our experience as a Government does not justify that at all.

I am not sure whether the report you have contains the report from the officer who is in charge of the Benguet improvement. He is now working 3,000 men.

MR. CRUMPACKER. I read in that connection about the excursion of a lot of laborers who went up the hill and down again.

Secretary TAFT. Yes, sir; you saw the final conclusion to that?

MR. CRUMPACKER. Yes, sir.

Secretary TAFT. After that we succeeded in getting 3,000 laborers, who are now at work and have been at work for six months and are doing good work.

MR. CRUMPACKER. These gentlemen seem to have been under the control of a walking delegate.

MR. NEEDHAM. It is your judgment that unless the Government gives this guaranty or some other form of governmental aid that there will be no satisfactory development of the railroads in the archipelago?

Secretary TAFT. Not for a number of years, and I think it will be exceedingly slow. I think so both because of the slowness with which it came during our stay in the islands and consequently because of the experience in other quarters. In India they have now 27,000 miles of railway, and if my figures and recollection are right about half of those railways were constructed under what is called the guaranty system and the other half were constructed outright by the government.

There are no private lines except those which were begun with the guaranty system in India, and I think that is true in Australia and New Zealand. English capital is much more prone to go a long distance from home than American capital; at least we have found it so. The Spaniards were unable to get anybody to come there except by guaranteeing 8 per cent on the estimated cost of the railroad.

MR. NEEDHAM. Was that due to the fact that the islands were never in a tranquil state? Suppose we enforce tranquillity there?

Secretary TAFT. Of course the question of tranquillity would have something to do with it. When the grant was made, I do not know when the concession was given to the Spanish railways, but I think it must have been five or six years before the insurrection and they had nothing but ladrones and there was no organized insurrection. Of course the railway itself is a very great tranquilizer.

It has had that effect in Mexico. Mr. Norton told me that he made surveys in Mexico when it was very dangerous to make surveys, but the effect of the Mexican railway was that the ladrones changed to be policemen.

MR. CRUMPACKER. If we make a guaranty of a net income on the investment as an inducement do you think economical management will be as great as otherwise?

Secretary TAFT. Yes, sir; I have prepared it with a view to what has been brought out in the discussion in New York, formed from the section which was originally proposed. There is omitted from this what I think ought to be put in the same provision that is in the printed section, to wit, that the amount of capital to be invested should be certified in the act itself.

SEC. 4. For the purpose of aiding in the construction, maintenance, and operation of railroads in the Philippine Islands, the Philippine government is authorized to guarantee an income of not exceeding five per centum—

The gentlemen in Wall street thought that it would be necessary to have 5 per cent. I do not think that is unnatural.

The CHAIRMAN. You mean for them to think so?

Secretary TAFT. For them to think so, and for them to say so. I am not altogether convinced that we can not get it for 4 per cent, but that is a question for the committee, whether they will leave it to the discretion of the Commission to secure that.

My impression from talking with capitalists in New York is that possibly we can secure some competition if there be some state aid, and if there is competition then we could certainly get it for 4 per cent—

upon capital invested in the construction and equipment of such railroads or any part thereof, the guaranty to be in such form and under such provisions requiring repayment of any sum paid thereunder as the Philippine government shall deem to be to the public interest, and the act making the guaranty shall declare the proper rules for ascertaining clearly the capital actually invested in said railroads and the net income actually received on the capital so invested and shall set forth the limit of invested capital to which said guaranty shall apply,

The committee will readily understand that there is no subject which can be made one of such bitter discussion as what the net income of a railroad is, and it seems to me that the Commission ought to say in advance, or to lay down certain rules in advance, and remove the reason for that discussion.

and shall provide for government supervision of the conduct of the finances of the road and its location, construction, and maintenance, as well as by the presence in the board of directors of two or more government directors, the number and manner of their selection to be determined by law, and also by such further supervision through the auditing, engineering, and railroad bureaus of the Philippine government as the public interest shall require.

In India the guaranteed railroads were built by those who were to be stockholders in the roads, paying the money into the Indian treasury, and then the roads were built under the supervision of the engineering officers of the government, so that they knew or were supposed to know just the amount of money that went into the investment.

Mr. CRUMPACKER. Your section does not contemplate any control over the number or the salary of the directors or officers of the road?

Secretary TAFT. No, sir. Still it does say "shall provide for governmental supervision of the conduct of the finances of the road."

Mr. CRUMPACKER. That would prevent any dispute?

Secretary TAFT. Yes, sir.

The CHAIRMAN. What has been the experience of England in India?

Secretary TAFT. I do not say that they have not had trouble in working out the system of guaranty. The guaranty contracts vary, sometimes taking one form and sometimes taking another, and the question frequently troubled them as to the actual amount which was invested, whether the actual amount was properly stated or not, and what went into road after its first construction should be carried to capital and so have the benefit of a guaranty. On the whole, I think that Indian governments prefer the construction of railroads by the Government itself. The home office prefers the guaranty system, because it does not seem to like government ownership.

The Government may, in its discretion, admit material imported for the construction and equipment of railroads to be constructed in said islands to free entry as material imported for the use of the Philippine government. *Provided, however,* That the total annual contingent liability of the Philippine government under the

guaranties authorized by this section shall not at any time exceed the sum of one million five hundred thousand dollars. The said guaranty may be made in the form of a guaranty of interest on bonds or of income on preferred or common stock as may be determined by said government, and shall be made upon such terms and conditions as the said government of the Philippine Islands shall approve.

Here is something that was inserted at the request of the gentlemen with whom I talked, but I submit it to the committee:

(Copy not furnished printer.)

That is, while the Government is liable on the guaranty that the bonds may be exempt from taxation.

Sir William Van Horn thinks that the islands offer a fair prospect for remuneration on capital invested after the investment gets to going in respect to a number of lines, and in respect to others it will take a longer time.

The question of how long the guaranty shall continue—whether it shall be thirty years, forty years, or ninety-nine years as in England, or perpetual, is another question. I do not quite see how Congress can enter into all those details, because they will vary so much with each line to be constructed, and it is a matter that you must trust somebody to exercise discretion in. My own judgment is a guaranty ought not generally to exceed forty years, and then I think, too, there ought to be an arrangement by which every cent of money paid by the Government should constitute a lien on the property, to be repaid to the Government in some future time. That may be secured either by a sinking fund or by a division of the net proceeds when they shall exceed a certain amount.

Mr. JONES. Have you prepared anything embodying that idea?

Secretary TAFT. Nothing except this:

The guaranty to be in such form and under such provisions concerning repayment of any sum paid thereunder as the said Government shall deem to be to the public interest.

It leaves it to the Commission, in other words.

Mr. JONES. That leaves it to the Commission to say whether it shall pay anything back or not?

Secretary TAFT. Yes, sir; it does, and it leaves it to the Commission to make a perpetual guaranty, if they would. Under many of the guaranties in England this was the form taken:

The Government conveyed the land to the railroad for the construction of the road on a 99-year term with a provision of a reverter at the end of ninety-nine years, provided that the Government should pay at that time the cost of the equipment and the rolling stock at the end of ninety-nine years. Before that time, if the company saw fit, it had the right to demand of the Government that it should pay to the company all the money that it had invested.

The CHAIRMAN. The roads in India paid during the last year, as I understand, an income of 5 per cent?

Secretary TAFT. I believe they have. There are 27,000 miles of road there. Of course, they have a much larger population than we have, and of course the necessity and opportunity for railroad building are very much greater than with us. This plan would contemplate not more than 1,000 miles of railroad.

The question of 4 per cent or 5 per cent is a question of discretion with the Commission and what the committee is willing to leave in the discretion of the Commission. While I should like to have it 5 per

cent, I should not feel discouraged if the discretion was limited to 4 per cent. In other words, I want to be as frank as I can be with the committee.

I should hope that we might get some of the roads built on a 3 per cent guaranty, and others without any guaranty at all. I do not think the Commission, as at present constituted certainly, is likely to waste the money of the Government, because this guaranty is coming right out of the treasury which they are constantly spending money from.

The CHAIRMAN. It is your opinion, Mr. Secretary, that some portions of these proposed lines would be remunerative in the near future?

Secretary TAFT. Yes, sir. For instance, the road running from Legaspi through these mountains [indicating on map] up here [indicating on map] to Pasacao, a distance of possibly 85 or 90 miles, ought to be remunerative from the time they begin to haul freight. Of course, if you guarantee a road that begins to pay your guaranty is not expensive.

The CHAIRMAN. What other lines do you think would pay in the near future?

Secretary TAFT. I think the line from Manila down to Batangas would probably pay, and the line along the south of Laguna de Bay would probably pay.

The CHAIRMAN. How long, approximately, are those lines in the aggregate?

Secretary TAFT. Fifty or 60 miles. I am quite sure, though Mr. Higgins, who runs the Manila-Dagupan road, doubts it that this line would pay from Dagupan to Laoag on the west coast.

The CHAIRMAN. What is the approximate length?

Secretary TAFT. One hundred miles; perhaps 120 miles.

The CHAIRMAN. Is that locality thickly settled?

Secretary TAFT. Yes, sir. It is a narrow strip, but very thickly settled.

Mr. OLMSTED. What would be the particular traffic?

Secretary TAFT. Tobacco and rice. One of the great objects to be obtained by railroad traffic in the islands is the distribution to the islands of food stuffs—of rice, for instance. A great deal of the inter-island traffic is in rice. It is incorrect to say that the islands suffer on the whole from a lack of intercommunication—I mean inter-Archipelago communication—because, as Judge Crumpacker pointed out, nature has provided a cheaper kind of transportation by sea. The only difficulty is, as I explained to Mr. Jones a little while ago, that the harbors are not many, and six months in the year the harbors on one side are not available, and then the rest of the year the same conditions exist as to the harbors on the other side.

I have, Mr. Chairman, a number of communications, personal to me, with respect to this matter, and I would prefer that they should not be made public, but I shall be glad to submit them to the Committee if they could be regarded as confidential, showing the attitude of gentlemen who are likely to invest in the roads, so the Committee could get the same view of the matter I have.

The CHAIRMAN. If you leave them with the clerk of the Committee we will have the Committee examine them in executive session and treat them as confidential.

Secretary TAFT. Very well; I shall be glad to do so.

Mr. WILLIAMS. What per cent of the 1,000 miles you think should be built would be paying roads within the near future?

Secretary TAFT. I should think perhaps 30 or 40 per cent. The road which will not pay and which is the most important to construct, and which is probably the most expensive, is the road from Manila north through Caravallo Pass down to Aparri, on this river [indicating on map the Cagayan].

Mr. WILLIAMS. A very fertile country?

Secretary TAFT. Yes, sir; but one thinly populated.

Mr. WILLIAMS. If the Commission has the power to make these guaranties, will it not be more difficult to get the railroad companies to build any of those lines without a guaranty? In other words, if they know the Commission has the power to grant the guaranty, will they not go after all of it?

Secretary TAFT. I think so. On the other hand, those they can construct without a guaranty the guaranty on will not be very burdensome. I do not know that I make myself clear.

Mr. WILLIAMS. Yes, sir.

Secretary TAFT. A guaranty on a road that will pay is not a very heavy obligation.

The CHAIRMAN. If 30 per cent of these roads would be remunerative within the near future, what, then, would be the total annual burden on the insular treasury on an investment of, say, \$30,000,000?

Secretary TAFT. That would depend on the percentage. If 33 per cent, it would be 5 per cent on \$20,000,000, and that would be \$1,000,000 a year. That assumes, however, that the other roads do not pay anything. It would hardly pay to build all the roads at once, as Colonel Edwards suggests; they ought to be built within three or four years' time. If they were all built at once, it might interfere somewhat with the supply of labor.

The CHAIRMAN. In your opinion it is the most important improvement suggested for the Philippine Islands?

Secretary TAFT. Yes, sir; I do not know anything that compares with it. Of course I yield to no one in my hope and expectation of the educational system that we have in the islands, but intercommunication is educational. It would have been impossible to have this separation of dialects had there been a comprehensive railroad system through the islands. It is a part of an educational system; that is what it is.

The CHAIRMAN. If those people are ever to be unified, something of this kind is absolutely essential?

Secretary TAFT. Yes, sir; it would create a much better condition than now exists, and I am quite sure it would aid very much in the preservation of good roads. What I mean is that it would relieve the trunk lines of a great deal of carriage and would enable, with less expense, the provinces and municipalities to take care of the roads which they have.

Mr. CRUMPACKER. How are the islands supplied with telegraph and cable lines?

Secretary TAFT. It is possible from Manila to communicate by telegraph with the capital of every province in the islands and with every important town. I do not mean to say that it is as perfect a communication as it might be, because we are in a transition period. We are transferring from the military to the civil government the

maintenance and supervision of those lines, and we are engaged in educating native operators to take English messages, and that has proven to be a somewhat longer task than we anticipated. It will probably take two or three years, but it is going on gradually. That is a very great advantage in the government of the islands. We are kept in close touch with the governor of every province. I do not suppose the gentlemen of the committee can quite realize the enormous difficulties of governing 3,000 islands, communication between which is interrupted as much as it is between these islands by storms and monsoons. I mean by mail.

The auditor of the islands is at times in a perfectly discouraged and hopeless condition because of the length of time it takes him to communicate with treasurers and disbursing officers and receiving their reports and criticising their reports and getting them back again, but that difficulty is more or less relieved by the speed with which the executive head can communicate with any officer. We can relieve the officer if he proves to be too slow in his accounts by telegram, and so orders of that sort can be executed very promptly; but orders that depend on the mail—accounts and things of that sort—are exceedingly slow.

MR. CRUMPACKER. The government controls and operates the cable and telegraph lines?

Secretary TAFT. Yes, sir. There is cable communication, or at least there ought to be, if it is not to be interrupted by breaking cable, clear to Jolo, around this way [indicating on map]. We reach every point from Manila. The last cable that is being laid is the cable from Legaspi to Catauduanes, and there is one cable that has not yet been laid out to this island, Paragua [indicating on map]. We do reach the island of Cuyos by the cable there [indicating on map], and that island contains the capital of Paragua. Therefore what I say is true, that we reach the capital of every province, but when the capital is moved to this island, Paragua [indicating on map], a cable will have to be built there, and that will cost \$75,000 at least.

MR. ROBINSON. I called your attention the other day to the white inhabitaney of the islands and then referred to the tropical nature of the country, the health conditions, and the climatic conditions, and I would like to have your opinion as to the white inhabitants and their future prospects.

Secretary TAFT. The climate of the Philippine Islands is tropical, and in all tropical countries white labor is impossible. I mean labor such as the tropical labor is capable of. As a consequence, I do not think any white labor, unless it be very highly skilled labor, will ever be attracted to the islands. Those who go to the islands will go for business; go there to supervise investments; go there to be in the Government, and not go there for manual labor.

That, I think, should limit the number of Americans who go to the islands outside the civil service and the military service to 20,000 or 30,000. I should doubt if it ever exceeded that. It is not true that the islands are unhealthful, as India may be said to be, because the heat in the islands rarely equals what it is in India. You talk to an old Indian—I mean an Englishman who has been a long time in India—and he will tell you that in most parts of India it is absolutely essential that you should have a punka, which is a fan suspended from the ceiling to keep the air moving.

You can not sleep in most of the lowlands of India without a punka, so that the Indian servant who sits outside of the bedroom and pulls the rope and pulls the punka all night is an essential part of your household. In Manila, while they do have sometimes electric fans and sometimes a punka at the dining-room table, we never had a punka all night. It is an institution that is not known there. The islands are wind swept both ways, and it is perfectly possible to live there for three or four years at a stretch, if you obey the laws of hygiene and take the exercise you ought to take, and remain healthful. At the end of that time it is wise, because of the strain on your nervous force, to take a term of three or six months in the temperate zone. I know I am impeached as a witness because I was ill twice in the islands, but I took a family of children, a baby 2 years old, a girl 8 years of age, and a boy 10 years old, and they were there for four years, with the exception of a trip to the United States, and they did not have a day's illness while there.

Mr. ROBINSON. You were on the seacoast?

Secretary TAFT. We were in Manila. I think Manila is rather more healthful than the interior. There are places in the islands so malarious as to be dangerous.

Mr. ROBINSON. You have the bubonic plague?

Secretary TAFT. No, sir; very little.

Mr. ROBINSON. Smallpox and cholera, how do they interfere with the islands?

Secretary TAFT. There was a cholera epidemic in 1883. There was a cholera epidemic between that time and 1902. I do not think there have been more cholera epidemics in the Philippine Islands than in the United States. The one in 1883 was due to the impurity of the water. The death rate in Manila reached 1,000 a day. This time, in 1902, it did not exceed 100, and was ordinarily as low as twenty or thirty. So far as the bubonic plague is concerned, that is practically stamped out by the system of rat killing that has been inaugurated, and they have not had much of it in the islands for two or three years.

Mr. ROBINSON. Kindly give us an estimate of the number of lepers in the islands.

Secretary TAFT. There was an estimate by Doctor Maus, who was at the head of the health department, of 20,000, but the subsequent investigation shows that that number probably will have to be reduced to 10,000 and perhaps less than 10,000.

Mr. ROBINSON. Will the islands be anything more than large plantations?

Secretary TAFT. I doubt if manufactures will be introduced in any great way there. It is possible. They have now quite extensive cigar factories and then there are towns where there is a good deal of manufacturing—the manufacture of furniture and hats, textile fabrics, etc.

Mr. NEEDHAM. Are not the woods valuable enough to induce manufacture?

Secretary TAFT. The woods are beautiful and they are valuable when you get them out. The great difficulty about the woods of the Philippines is that the most valuable of the woods do not grow in groves. They are to be found in groves of other growths and the cutting of them and the pulling of them out, they are so heavy and usually far removed from the places for easy transportation, makes them quite expensive to get, but there is a great deal of very valuable

wood there and as the machinery for dragging the wood out is improved and the intercommunication in the islands is improved, of course, the woods will be brought nearer to the market and it will be very much easier and cheaper to bring the woods to the United States. There are inferior classes of wood, quite as good as our soft woods, which can probably be used there for construction. However, the white ant is likely to eat the softer grades of wood.

Mr. NEEDHAM. Is not the soil sufficiently fertile to induce farming in small holdings?

Secretary TAFT. Yes, sir. You have allowed the Filipino 40 acres. I think 40 acres is more than he needs to cultivate to support his family.

Mr. NEEDHAM. Why should there be large plantations?

Mr. ROBINSON. Would it not be in large plantations worked by corporations?

Secretary TAFT. That depends upon what the cultivation is. In sugar, that is true.

Mr. NEEDHAM. That is true in all countries where sugar is raised?

Secretary TAFT. Yes, sir; but I presume in tobacco land, and I rather think in rice land after we get the friar lands distributed, there will be more small farmers than in any other population of the same size in the world.

Mr. NEEDHAM. Can not they raise tropical fruits, like oranges?

Secretary TAFT. Yes, sir. There are some provinces where there are large plantations. In many provinces the hemp, the cocoanut, and the rice plantations are cultivated in small holdings. A man works for five or six years planting his cocoanuts; he gets 4 or 5 hectares—10 or 15 acres—and he sits in his house and collects at the end the rent for the trees. In Tayabas there are so many small holdings by the poor people of cocoanut groves from which they get enough to live on that workmen in that province are very hard to get. In Batangas, where the land is owned by large landowners and the people are more or less agricultural laborers, it is easy to get labor. I would not say, therefore, that the tendency will be in the Philippine Islands to the ownership of large plantations, except in those islands where the cultivation of sugar is the chief product.

The Spanish Government owned a monopoly in tobacco, especially in the Cagayan Valley, to which I have referred, and they farmed out their lands, and when they concluded that they would give up the monopoly they sold the lands to the tenants, and in the valley there is a very large number of small tobacco-land owners. So with respect to hemp, because hemp grows so easily the number of land owners in hemp is very large. If you will refer to the census, which will be out, I hope, in October next, I think you will find the number of small land owners in the Philippine Islands exceeds that in most countries.

Mr. ROBINSON. Have you in mind the population of the Philippines and the square miles?

Secretary TAFT. I can give you the figures. The square miles are 120,000, and the population is, in round numbers, 7,500,000.

Mr. WILLIAMS. That is about 60 to the square mile?

Secretary TAFT. Yes, sir; that is about it.

The CHAIRMAN. Will you please tell us what you meant a few moments ago, when you said that although we allowed the Filipino 40 acres of agricultural land he would not be able to cultivate it?

Secretary TAFT. I meant that he would be able to raise, on consider-

ably less than 40 acres, enough to support himself and his family. That is what I meant.

Mr. WILLIAMS. What is the character of investments in the islands being made by Americans?

Secretary TAFT. Practically none, except there are about \$2,500,000 or perhaps \$3,000,000 invested in a street railway in Manila.

Mr. WILLIAMS. Are any lands being collected?

Secretary TAFT. I do not know of a single investment in land by Americans. They may be awaiting the sale of public lands. I believe probably they are. You see we have submitted to Congress, under the Philippine act, the land regulations which will go into effect if Congress takes no action, and until they go into effect it is a little difficult for me to say how many Americans will invest there.

Mr. WILLIAMS. You have not sold any of the lands yet?

Secretary TAFT. No, sir.

Mr. CRUMPACKER. What about the shipbuilding industry in the Islands? Are there shipyards?

Secretary TAFT. One or two, yes, sir; but of limited size and capacity. I think I said the other day that we attempted to encourage them by asking the privilege of bringing in Chinese shipwrights to teach the Filipinos the ship-making business. I suppose it will grow, but everything is so much more expensive in the Philippines than it is in Hong-kong and Shanghai that a vessel which plies between the ports has its repairing done in the Chinese ports and not in the Philippines.

Mr. ROBINSON. The system of subsidy the Government adopted out West was the checker-board system?

Secretary TAFT. Yes, sir.

Mr. ROBINSON. Would it be practicable to increase the value of the reserve by land subsidy; that same system?

Secretary TAFT. It possibly might, I think. Along the lines where the railroads are to run there is a great deal of private ownership. I am not sure we are right in thinking that we ought to avoid the land-grant system, but we thought it was better for the Government to know how much it was being made liable for. Still, it might increase the value of the Government land which is retained. You know there are about 75,000,000 acres of land in the Philippines, and of that number certainly 60,000,000 acres belong to the Government.

Mr. ROBINSON. We could know by a land subsidy what our limit was?

Secretary TAFT. Yes, sir; of course, you could know how much land you would allot.

Mr. NEEDHAM. Do the natives claim any of these public lands?

Secretary TAFT. The Dattos claim land in the Moro country, but no other tribes. Among the Filipinos there is nothing except the claims by squatters, and that we attempted to recognize in the laws that we have submitted to you for approval.

We are exceedingly anxious, if possible, to begin the railroad business. The sooner we begin it the more quickly the islands will respond to our efforts at development. I do not know anything that would so improve the condition of the people as the general spread of railroad communication in the islands.

Mr. NEEDHAM. Are the people generally pretty well satisfied with American occupation?

Secretary TAFT. I think they are. Of course they are an oriental people and they are disposed to be courteous and polite, and you have

to discount a little in taking what they say from what your opinion would be if you were dealing with an Anglo-Saxon people, but I think it not too much to say that they seem to be satisfied from the beginning, and believe more in our desire to aid them. I have elsewhere alluded to the attitude of some of the Americans who are in the islands engaged in business of hostility toward the Filipinos. I think I said that they were originally dependent for their profits on what the Army bought and that they shared the natural hostility of the soldiers toward the Filipinos who were fighting them, and that has continued down to the present day.

It has put the Government in opposition to that class of Americans and has brought them very much in sympathy with the Filipinos, and the Filipinos have responded, as is quite natural. The idea was spread among the Americans when I left the islands to Governor Wright that there was going to be a change in policy under him, and it was going to be a stiffer American policy. Governor Wright has in his inaugural address removed any such idea, and the expressions in the Filipino papers since his inaugural address say they are very well satisfied with the government as it is. I do not mean that they have not aspirations and ambitions for an increase in the voice which the people have in the government. They are looking forward with eagerness to the establishment of a popular assembly, but I think they are convinced of the sincerity of the desire on the part of the government to do them good.

Mr. JONES. Many of them are looking forward to absolute independence?

Secretary TAFT. A number are looking forward with the hope they may have independence.

Mr. WARNOCK. I gather from what you say that a native Filipino has not much desire to acquire land outside of his immediate wants. You say if he had 40 acres he would not use it?

Secretary TAFT. I do not mean that the native Filipino does not like land. I think he does; but what I meant to say was that 40 acres could considerably more than furnish to himself and his family enough to live on.

Mr. WARNOCK. I got the impression that he would sit down and loaf.

Secretary TAFT. He is a philosopher; he does not believe in working too hard.

Mr. WARNOCK. Has he a disposition to acquire lands?

Secretary TAFT. I do not think he is nearly as hungry for real estate as the Anglo-Saxon. However, a landowner has a little more social position, and he has been taught by the Spaniards to value that.

Mr. WARNOCK. Are there many of them who own large tracts?

Secretary TAFT. Yes, sir; some Filipinos are large landowners.

Mr. WARNOCK. Still they only own about 15,000,000 acres?

Secretary TAFT. I should think that was too high; possibly 10,000,000. The estimate given in the Land Office is 5,000,000, but I estimate, with squatters and their possessory rights that will ripen into private ownership, it will reach 10,000,000, and possibly 15,000,000.

Mr. WARNOCK. There are 30 of the governors of provinces?

Secretary TAFT. Thirty-eight, I think it is.

Mr. WARNOCK. Are any of them native Filipinos?

Secretary TAFT. All; there may be two American governors left, but I think that is all.

Mr. KINKAID. What proportion of the judges of the courts of the first instance are natives?

Secretary TAFT. About one-third. I think there are 7 native judges and 14 American judges in courts of the first instance, and there are 3 native judges and 4 American on the supreme court.

Mr. KINKAID. The ministerial officers, the sheriffs—I do not know what you call them—and those officers are all natives?

Secretary TAFT. Yes, sir. The supervisor of works in a province and the treasurer are usually Americans. The other officers—the governor, who is elected, the prosecuting attorney, secretary or clerk of the provinces—are all natives.

Mr. KINKAID. Do you look forward with a good deal of confidence at the Filipino part of the legislative assembly—that they will make successful legislators in cooperation with the Commission?

Secretary TAFT. I think so, but of course they will need education. I have no doubt 25 per cent of them, when they become legislators and become members of the assembly, will propose acts for the regeneration of mankind and schemes of universal salvation, but to come down to the practical business, it may need some years of education.

Mr. KINKAID. The greatest benefit will be that it will teach them the art of legislation?

Secretary TAFT. Yes, sir; that is the very use of the popular legislation. I am sure it will tend greatly to their political education. It will tend greatly to teach them the difference between political theories and actual practical government.

Mr. KINKAID. The way to qualify them for self-government is to have them participate to the greatest possible extent right along?

Secretary TAFT. Yes, sir; that is our theory.

Mr. WARNOCK. Are the local taxes assessed by the natives?

Secretary TAFT. Yes, sir; within the limits fixed by law. That is, a provincial board is authorized to levy a tax not exceeding three-eighths of 1 per cent on all the lands in the province. The municipal council is authorized to levy taxes not exceeding one-half of 1 per cent, making a limit of land taxation in the country not exceeding seven-eighths of 1 per cent.

Mr. WARNOCK. Have they no other taxes?

Secretary TAFT. There is a local license, or business tax, that they are authorized themselves to levy. That is what is called an industrial tax. That came from the Spanish régime.

Mr. WILLIAMS. How many American soldiers are there in the islands now?

Secretary TAFT. Fifteen thousand soldiers; about 5,000 scouts; those are native soldiers in the United States Army, and about 6,500 constabulary, native policemen under the insular government, and by a constabulary act which was passed last winter we have been able to use the scouts in connection with the constabulary.

The CHAIRMAN. They are all Filipinos—both the constabulary and the scouts?

Secretary TAFT. Yes, sir.

Mr. KINKAID. Is the constabulary included in the 15,000 soldiers?

Secretary TAFT. No, sir; there are 15,000 white soldiers in the archipelago.

Mr. WARNOCK. There is considerable home rule there after all?

Secretary TAFT. Yes, sir. We just had an election and I had a

letter from General Wright saying that judging by the protests and contests of elections our brown brother was acquiring knowledge as to how elections should be carried with an adaptability that was quite Anglo-Saxon.

I would like to submit the bill as a whole, if I may, amended as I recommend, with perhaps a comment on each section to show the necessity for its adoption or the reason why we think it should be adopted.

Mr. SMITH. Do I understand that you offer as a substitute for section 4 that which you have read?

Secretary TAFT. Yes, sir.

Thereupon the committee adjourned to meet to-morrow, Thursday, March 24, 1904, at 10.30 o'clock a. m.

COMMITTEE ON INSULAR AFFAIRS,
Thursday, March 24, 1904.

The committee met at 11 o'clock a. m., Hon. Henry Allen Cooper in the chair.

STATEMENT OF HON. WILLIAM H. TAFT, SECRETARY OF WAR—
Continued.

The CHAIRMAN. Mr. Secretary, we are prepared to hear you.

Secretary TAFT. Shall I read the bill as I have prepared it?

The CHAIRMAN. Yes, sir.

Secretary TAFT. I had hoped to have time to prepare a written memorandum, which I will send later, because getting the bill itself into shape has taken up all the time I have had. The title of the bill will have to be changed, I think, because of the amendment of two or three other acts.

A bill to amend the act approved July 1, 1902, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," and to amend an act approved March 8, 1902, entitled "An act temporarily to provide revenue for the Philippine Islands, and for other purposes," and to amend an act approved March 2, 1903, entitled "An act to establish a standard of value and to provide for a coinage system in the Philippine Islands, and to provide for the more efficient administration of civil government in the Philippine Islands, and for other purposes."

I believe there is no constitutional requirement that you should put in everything that is in the act.

Mr. NEEDHAM. That only applies to the State government?

Secretary TAFT. Yes, sir.

The CHAIRMAN. It is much better to have it in, though?

Secretary TAFT. Yes, sir.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all bonds issued by the government of the Philippine Islands or by its authority shall be exempt from taxation by the Government of the United States, or by the government of the Philippine Islands or any political or municipal subdivision of said islands, or by any State, county, municipality, or other municipal subdivision of the States and Territories of the Union and the District of Columbia.

That is in accordance with Judge Crumpacker's suggestion.

SEC. 2. That for the purpose of providing funds to construct port and harbor works, bridges, roads, buildings for provincial and municipal schools, court-houses, penal institutions, and other public improvements for the development of the Philippine Islands by the general government thereof, the government of the Philippine Islands is authorized to incur indebtedness, borrow money, and to issue and sell (at not less than par value in gold coin of the United States) registered or coupon bonds in such amount and payable at such time or times as may be determined by said government of the Philippine Islands, with interest thereon not to exceed five per centum per annum: *Provided*, That the entire indebtedness of the government of the Philippine Islands created by the authority conferred by this section shall not exceed at any one time the sum of ten millions of dollars: *And provided further*, That the law of the Philippine government creating the indebtedness and authorizing the issue of the bonds under this section shall be approved by the President of the United States.

Gentlemen, of course this 5 per cent I have just put in as it was originally, subject, of course, as all this is, to the wishes of the committee. As to whether it should be \$5,000,000 or \$10,000,000, I should prefer \$10,000,000 because it gives more scope, but \$5,000,000 will serve all immediate purposes. Then I have put in the President of the United States, because it seems to me that it is better to have the sanction of some person who is not directly in the Philippine government for the issue of bonds, and for the convenience of bondholders other than the Secretary of War, who is a part of the Philippine government under the present arrangement. This requires the President of the United States, which is an additional requirement over and above what it would be were it a mere law of the Philippine Islands. I think the bonds for the friar lands were 4.5 per cent. We sold them at 4 per cent, but the limit in the law was 4.5 per cent.

MR. WILLIAMS. Do you not think this proviso would require a complete history of the issue of the bonds to be submitted to the President for his approval, because he is not to approve the authority, but the issue of the bonds?

Secretary TAFT. Yes, sir.

MR. WILLIAMS. You think that is best?

Secretary TAFT. Yes, sir; I think it is wise.

MR. WILLIAMS. If he should pass on that and his judgment should be wrong, do you think the United States Government would be liable?

Secretary TAFT. No, sir.

Colonel EDWARDS. It would give the bonds a better commercial value.

MR. WILLIAMS. But it would put them under a greater moral obligation than if he did not?

Secretary TAFT. I am not sure. It depends upon whether the authority given by the Secretary of War imposes any less moral obligation than the President of the United States; possibly it does.

MR. ROBINSON. But the bondholders would be glad to have the stamp of approval on the bond itself.

Secretary TAFT (reading):

SEC. 3. That section sixty-six of the act of Congress approved July first, nineteen hundred and two, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," is hereby amended to read as follows:

"SEC. 66. That for the purpose of providing funds to construct sewers, to furnish adequate sewer and drainage facilities, to secure a sufficient supply of water, and to provide all kinds of municipal betterments and improvements in municipalities, the government of the Philippine Islands, under such limitations, terms, and conditions as it may prescribe, with the consent and approval of the President of the United States, may authorize and enable, by appropriate legislation, any municipality of said islands to incur indebtedness, borrow money, and to issue and sell (at not less than par value in gold coin of the United States) registered or coupon bonds, in such amount and payable at such time as may be determined by the government of said islands, with interest thereon not to exceed five per centum per annum: *Provided*, That the entire indebtedness of any municipality shall not exceed five per centum of the assessed valuation of the property in said municipality, and any obligation in excess of such limit shall be null and void."

This section is exactly as it was before, except it reads "with the consent and approval of the President of the United States" instead of "with the consent and approval of the Secretary of War." It is 10 per centum, but my impression is the committee thought it should be reduced to 5 per centum.

The next section is section 4, which is the railroad section. I have had some other railroad sections prepared for the choice of the committee.

SEC. 4. For the purpose of aiding in the construction, maintenance, and operation of railroads in the Philippine Islands, the Philippine government is authorized to guarantee an income of not exceeding five per centum upon capital invested in the construction and equipment of such railroads or any part thereof, the guaranty to be in such form and under such provisions requiring repayment of any sum paid thereunder as the Philippine government shall deem to be to the public interest, and the act making the guaranty shall declare the proper rules for ascertaining clearly the capital actually invested in said railroads and the net income actually received on the capital so invested and shall set forth the limit of invested capital to which said guaranty shall apply, and shall provide for government supervision of the conduct of the finances of the road and its location, construction, and maintenance, as well as by the presence in the board of directors of two or more government directors, the number and manner of their selection to be determined by law, as also by such further supervision through the auditing, engineering, and railroad bureaus of the Philippine government as the public interest shall require. The said guaranty may be made in the form of a guaranty of interest on bonds or of income on preferred or common stock, or in such other form as may be determined by the Philippine government, and shall be made on such other terms and conditions as the Philippine government shall approve: *Provided, however,* That the total annual contingent liability of the Philippine government under the guaranties authorized by this section shall not at any time exceed the sum of one million five hundred thousand dollars.

Section 5 is a new section and is simply inserted as an alternative:

SEC. 5. In case the Philippine government shall find itself unable to secure the construction, equipment, and maintenance of any railroad which the public interests shall require, upon terms satisfactory to the said government, under the provisions of the preceding section, then and in that event it may issue and sell bonds of said government at not less than par, to an amount not exceeding thirty million dollars United States currency, and with the proceeds thereof may proceed to construct the needed railroads or any part thereof according to plans and specifications approved by said government: *Provided, however,* That if any roads are constructed under guaranties authorized by the preceding section, then the limit of bonds which may be issued hereunder for the government constructions of such railroad or railroads, shall be reduced by the amount of the principal, the income on which has been guaranteed.

In other words, if there are guaranteed railroads to the extent of the income on \$15,000,000, this limits the right to construct railroads to the other \$15,000,000, that is less than \$30,000,000, assuming that the \$1,500,000 in the preceding section was the guaranty of an income on \$30,000,000—

The bonds authorized hereunder shall be registered or coupon bonds of said Philippine government for the amounts herein authorized, the said bonds to be in denominations of fifty dollars or any multiple thereof, bearing interest at the rate of not exceeding five per centum per annum, payable quarterly, and to be payable at the pleasure of said government after dates named in said bonds, not less than ten nor more than forty years after the dates of their issues, together with the interest thereon in gold coin of the United States of the present standard value or the equivalent in value of money of said islands. The moneys which may be realized or received from the issue and sale of said bonds shall be applied by the government of the Philippine Islands only to the construction, equipment, and maintenance of railroads in this section authorized, including the acquisition of such real estate as may be necessary therefor.

SEC. 6. The Philippine government having constructed at its own expense railroads under the provisions of the foregoing section, is authorized to lease the same to responsible lessee or lessees for a period not exceeding fifty years, upon such terms and conditions as may be approved by the Philippine government and the President of the United States.

Now, gentlemen, I have said that so far as I am concerned, and so far as the Philippine Commission is concerned, we do not ask the right to construct government railways. I do not think it would be wise.

I think it would be wiser to have them constructed by private enterprises with the guaranty, but I put this section in as an alternative, because the committee may think differently.

Mr. JONES. Do you not think that if the Philippine government should construct these railroads they should operate them and not lease them?

Secretary TAFT. It is possible.

Mr. JONES. If they are going into the railroad business, do you not think they should operate them, too?

Secretary TAFT. I want to keep out of that as much as possible.

Mr. NEEDHAM. Is not that a wise provision to put in, even if you do not exercise any authority under it?

Secretary TAFT. Yes, sir; I think we ought to have the right to lease.

Mr. NEEDHAM. Because that will probably induce capital to come there.

Mr. CRUMPACKER. I do not believe in that plan at all.

The CHAIRMAN. England built some of her railroads in India?

Secretary TAFT. She built over half of them. I think probably about a third were built under a guarantee and the rest as government roads.

The CHAIRMAN. She has never in England built any Government railroads?

Secretary TAFT. No, sir. Nearly all the railroads on the Continent are owned by the governments.

The CHAIRMAN. But none in England?

Secretary TAFT. I do not think so. I do not think it is a wise policy myself, and I think it will increase the patronage of the government in the Philippine Islands so largely that it would not be wise.

Mr. NEEDHAM. The question of patronage there is a more difficult question than here?

Secretary TAFT. Yes, sir; and can be much better managed by a private corporation. Colonel Edwards suggests that there is an example of government construction in the rapid transit in New York. There the city, or the rapid transit commission, under State legislation issues bonds and constructs the subway, and then leases the subway to an operating railway. We have done the same thing in Cincinnati. We constructed a railway from Cincinnati to Chattanooga, and now it is leased to a railway corporation that is running on a lease of a long term of years—fifty, I think.

Mr. NEEDHAM. Is that profitable to the city?

Secretary TAFT. It is now; yes, sir; though I would not recommend it as a general business for cities.

Mr. WARNOCK. They had a big struggle for many years?

Secretary TAFT. Yes, sir.

Mr. WARNOCK. I think Italy built all her railroads and leases them?

Secretary TAFT. I am not sure. The Cincinnati railway was in the hands of a receiver when I was on the bench, for seven years; but we paid the debts and turned it back to the leasing company.

I simply tender that section to the committee for its consideration. Personally, I should be entirely content with section 4 as it is, added to the provisions contained in section 7, to wit:

“SEC. 7. The Philippine Government may, in its discretion, admit material imported for the construction and equipment of railroads to

be constructed in said islands either under section 4 or section 5 hereof to free entry as material imported for the use of the Philippine government," making section 4 applicable not only to steam railways, but electric railways. Until we can get railroads in the islands which will run to the forests it will be probably cheaper to import wood from Austrailia that the white ant does not affect as it lays under the rail.

SEC. 8. That the immigration laws of the United States in force in the Philippine Islands shall be administered by the officers of the Philippine government designated by appropriate legislation of that government, and all moneys collected under said laws as duty or head tax on alien immigrants coming into the Philippine Islands shall not be covered into the general fund of the Treasury of the United States, but shall be paid into the treasury of the Philippine Islands, to be used and expended for the government and benefit of said islands.

That section is just as it was in the printed bill.

Mr. JONES. Section 5 in the printed bill?

Secretary TAFT. Yes, sir.

SEC. 9. That the government of the Philippine Islands is hereby authorized to prescribe the compensation for the chief justice and associate justices of the supreme court of the islands, not to exceed ten thousand five hundred dollars for the chief justice and ten thousand dollars for each associate justice per annum.

You suggested, Judge Crumpacker, \$10,000, but I think it would be wiser to make a little distinction between the salary of the chief justice and the others.

Whenever by reason of absence or disability of any judge of the supreme court or by reason of vacancies occurring therein, a quorum of the court shall not be present for business, the civil governor of the Philippine Islands is authorized to designate a judge or judges of the court of first instance in the islands to sit and act temporarily as a judge or judges of the supreme court in order to constitute a quorum of said supreme court for business. If a judge so designated shall not have his usual place of residence at the city of Manila he shall be allowed his travelling expenses from his usual place of residence to Manila and return and the sum of ten pesos, Philippine currency, a day for the period during which he is engaged in the supreme court, the period to be calculated from the time he leaves his usual place of residence until his return from Manila.

SEC. 10. The civil governor of the Philippine Islands shall hereafter be known as the governor-general of the Philippine Islands.

Section 11 is the same as section 7 in the printed bill.

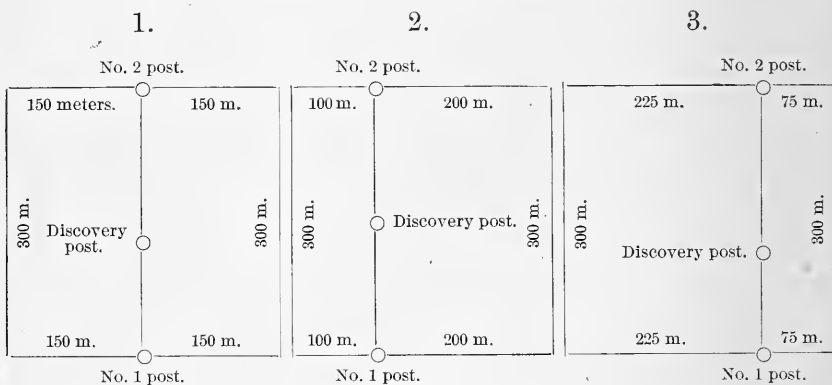
SEC. 11. That sections twenty-two, twenty-three, twenty-four, twenty-five, twenty-nine, thirty-one, thirty-six, thirty-seven, thirty-nine, fifty-three, and fifty-eight of the act of Congress approved July first, nineteen hundred and two, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," being provisions of said act respecting mineral lands, are hereby amended by reducing all measurements therein, whether of distance, area, or value, to the metric system, to wit, feet to meters, acres to hectares, miles to kilometers, and also dollars to pesos, so that said sections as amended shall read as follows:

"SEC. 22. That mining claims upon land containing veins or lodes of quartz or other rock in place-bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits located after the passage of this act, whether located by one or more persons qualified to locate the same under the preceding section, shall be located in the following manner and under the following conditions: Any person so qualified desiring to locate a mineral claim shall, subject to the provisions of this act with respect to land which may be used for mining, enter upon the same and locate a plat of ground measuring, where possible, but not exceeding three hundred meters in length by three hundred meters in breadth, in as nearly as possible a rectangular form; that is to say, all angles shall be right angles, except in cases where a boundary line of a previously surveyed claim is adopted as common to both claims, but the lines need not necessarily be meridional. In defining the size of a mineral claim it shall be measured horizontally, irrespective of inequalities of the surface of the ground.

“SEC. 23. That a mineral claim shall be marked by two posts, placed as nearly as possible on the line of the ledge or vein, and the posts shall be numbered one and two, and the distance between posts numbered one and two shall not exceed three hundred meters, the line between posts numbered one and two to be known as the location line; and upon posts numbered one and two shall be written the name given to the mineral claim, the name of the locator, and the date of the location. Upon post numbered one there shall be written, in addition to the foregoing, ‘Initial post,’ the approximate compass bearing of post numbered two. and a statement of the number of meters lying to the right and to the left of the line from post numbered one to post numbered two, thus: ‘Initial post. Direction of post numbered two, _____ meters of this claim lie on the right and _____ meters on the left of the line from number one to number two post.’ All the particulars required to be put on number one and number two posts shall be furnished by the locator to the provincial secretary, or such other officer as by the Philippine government may be described as mining recorder, in writing, at the time the claim is recorded, and shall form a part of the record of such claim.

"SEC. 24. That when a claim has been located the holder shall immediately mark the line between posts numbered one and two so that it can be distinctly seen. The locator shall also place a post at the point where he has found minerals in place, on which shall be written 'Discovery post.' *Provided*, That when the claim is surveyed the surveyor shall be guided by the records of the claim, the sketch plan on the back of the declaration made by the owner when the claim was recorded, posts numbered one and two, and the notice on number one, the initial post.

“Examples of various modes of laying out claims.



“SEC. 25. That it shall not be lawful to move number one post, but number two post may be moved by the deputy mineral surveyor when the distance between posts numbered one and two exceeds three hundred meters, in order to place number two post three hundred meters from number one post on the line of location. When the distance between posts numbered one and two is less than three hundred meters the deputy mineral surveyor shall have no authority to extend the claim beyond number two.

SEC. 29. That no mineral claim which at the date of its record is known by the locator to be less than a full-sized mineral claim shall be recorded without the word 'fraction' being added to the name of the claim, and the application being accompanied by an affidavit or solemn declaration made by the applicant or some person on his behalf cognizant of the facts: That the legal posts and notices have been put up; that mineral has been found in place on the fractional claim proposed to be recorded; that the ground applied for is unoccupied by any other person. In the said declaration shall be set out the name of the applicant and the date of the location of the claim. The words written on the posts numbered one and two shall be set out in full, and as accurate a description as possible of the position of the claim given. A sketch plan shall be drawn by the applicant on the back of the declaration, showing as near as may be the position of the adjoining mineral claims and the shape and size, expressed in meters, of the claim or fraction desired to be recorded: *Provided*, That the failure on the part of the locator of a mineral claim to comply with any of the foregoing provisions of this section shall not be deemed to invalidate

such location if, upon the facts, it shall appear that such locator has actually discovered mineral in place on said location and that there has been on his part a bona fide attempt to comply with the provisions of this act, and that the nonobservance of the formalities hereinbefore referred to is not of a character calculated to mislead other persons desiring to locate claims in the vicinity.

"Sec. 31. That every person locating a mineral claim shall record the same with the provincial secretary, or such other officer as by the government of the Philippine Islands may be described as mining recorder of the district within which the same is situate, within thirty days after the location thereof. Such record shall be made in a book to be kept for the purpose in the office of the said provincial secretary or such other officer as by said government described as mining recorder, in which shall be inserted the name of the claim, the name of each locator, the locality of the mine, the direction of the location line, the length in meters, the date of location, and the date of the record. A claim which shall not have been recorded within the prescribed period shall be deemed to have been abandoned.

"Sec. 36. That the United States Philippine Commission or its successors may make regulations not in conflict with the provisions of this act, governing the location, manner of recording, and amount of work necessary to hold possession of a mining claim, subject to the following requirements:

"On each claim located after the passage of this act, and until a patent has been issued therefor, not less than two hundred pesos' worth of labor shall be performed or improvements made during each year: *Provided*, That upon a failure to comply with these conditions the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives have not resumed work upon the claim after failure and before such location. Upon the failure of any one of several coowners to contribute his proportion of the expenditures required thereby, the coowners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent coowners personal notice in writing, or notice by publication in the newspaper published nearest the claim, and in two newspapers published at Manila, one in the English language and the other in the Spanish language, to be designated by the chief of the Philippine insular bureau of public lands, for at least once a week for ninety days, and if, at the expiration of ninety days after such notice in writing or by publication, such delinquent shall fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his coowners who have made the required expenditures. The period within which the work required to be done annually on all unpatented mineral claims shall commence on the first day of January succeeding the date of location of such claim.

"Sec. 37. That a patent for any land claimed and located for valuable mineral deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this act, having claimed and located a piece of land for such purposes, who has or have complied with the terms of this act, may file in the office of the provisional secretary, or such other officer as by the government of said islands may be described as mining recorder of the province wherein the land claimed is located, an application for a patent, under oath, showing such compliance, together with a plat and field notes of the claim or claims in common, made by or under the direction of the chief of the Philippine insular bureau of public lands, showing accurately the boundaries of the claim, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted, and shall file a copy of the notice in such office, and shall thereupon be entitled to a patent for the lands, in the manner following: The provincial secretary, or such other officer as by the Philippine government may be described as mining recorder, upon the filing of such application, plat, field notes, notices, and affidavits, shall publish a notice that such an application has been made, once a week for the period of sixty days, in a newspaper to be by him designated as nearest to such claim, and in two newspapers published at Manila, one in the English language and one in the Spanish language, to be designated by the chief of the Philippine insular bureau of public lands; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application, or at any time thereafter within the sixty days of publication, shall file with the provincial secretary, or such other officer as by the Philippine government may be described as mining recorder, a certificate of the chief of the Philippine insular bureau of public lands that one thousand pesos' worth of labor has been expended or improvements made upon the claim by himself or

grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description to be incorporated in the patent. At the expiration of the sixty days of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during such period of publication. If no adverse claim shall have been filed with the provincial secretary or such other officer as by the government of said islands may be described as mining recorder at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent upon the payment to the provincial treasurer or the collector of internal revenue of twenty-five pesos per hectare, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with the terms of this Act: *Provided*, That where the claimant for a patent is not a resident of or within the province wherein the land containing the vein, ledge, or deposit sought to be patented is located, the application for patent and the affidavits required to be made in this section by the claimant for such patent may be made by his, her, or its authorized agent where said agent is conversant with the facts sought to be established by said affidavits."

"SEC. 39. That where an adverse claim is filed during the period of publication it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavits thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction to determine the question of the right of possession and prosecute the same with reasonable diligence to final judgment, and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment roll with the provincial secretary or such other officer as by the government of the Philippine Islands may be described as mining recorder, together with the certificate of the chief of the Philippine insular bureau of public lands, that the requisite amount of labor has been expended or improvements made thereon, and the description required in other cases, and shall pay to the provincial treasurer or the collector of internal revenue of the province in which the claim is situated, as the case may be, twenty-five pesos per hectare for his claim, together with the proper fees, whereupon the whole proceedings and the judgment roll shall be certified by the provincial secretary or such other officer as by said government may be described as mining recorder to the secretary of the interior of the Philippine Islands, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, rightly to possess. The adverse claim may be verified by the oath of any duly authorized agent or attorney in fact of the adverse claimant cognizant of the facts stated; and the adverse claimant, if residing or at the time being beyond the limits of the province wherein the claim is situated, may make oath to the adverse claim before the clerk of any court of record, or any notary public of any province or military department of the Philippine Islands, or any other officer authorized to administer oaths where the adverse claimant may then be. If it appears from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the chief of the Philippine insular bureau of public lands, whereupon the provincial secretary or such other officer as by the government of said islands may be described as mining recorder shall certify the proceedings and judgment roll to the secretary of the interior for the Philippine Islands, as in the preceding case, and patents shall issue to the several parties according to their respective rights. If, in any action brought pursuant to this section, title to the ground in controversy shall not be established by either party, the court shall so find, and judgment shall be entered accordingly. In such case costs shall not be allowed to either party, and the claimant shall not proceed in the office of the provincial secretary or such other officer as by the government of said islands may be described as mining recorder or be entitled to a patent for the ground in controversy until he shall have perfected his title. Nothing herein contained shall be construed to prevent the alienation of a title conveyed by a patent for a mining claim to any person whatever."

"SEC. 53. That every person above the age of twenty-one years who is a citizen of the United States or of the Philippine Islands, or who has acquired the right of a native of said islands under and by virtue of the treaty of Paris, or any association

of persons severally qualified as above, shall, upon application to the proper provincial treasurer, have the right to enter any quality of vacant coal lands of said islands, not otherwise appropriated or reserved by competent authority, not exceeding sixty-four hectares to such individual person, or one hundred and twenty-eight hectares to such association, upon payment to the provincial treasurer or the collector of internal revenue, as the case may be, of not less than fifty pesos per hectare for such lands, where the same shall be situated more than twenty-five kilometers from any completed railroad or available harbor or navigable stream, and not less than one hundred pesos per hectare for such lands as shall be within twenty-five kilometers of such road, harbor, or stream: *Provided*, That such entries shall be taken in squares of sixteen or sixty-four hectares, in conformity with the rules and regulations governing the public-land surveys of the said islands in plotting legal subdivisions."

"SEC. 58. That whenever it shall be made to appear to the secretary of any province or the commander of any military department in the Philippine Islands that any lands within the province are saline in character, it shall be the duty of said provincial secretary or commander, under the regulations of the government of the Philippine Islands, to take testimony in reference to such lands, to ascertain their true character, and to report the same to the secretary of the interior for the Philippine Islands; and if upon such testimony the secretary of the interior shall find that such lands are saline and incapable of being purchased under any of the laws relative to the public domain, then and in such case said lands shall be offered for sale at the office of the provincial secretary, or such other officer as by the said government may be described as mining recorder of the province or department in which the same shall be situated, as the case may be, under such regulations as may be prescribed by said government and sold to the highest bidder for cash at a price of not less than six pesos per hectare; and in case such lands fail to sell when so offered, then the same shall be subject to private sale at such office, for cash, at a price not less than six pesos per hectare, in the same manner as other lands in the said islands are sold. All executive proclamations relating to the sales of public saline lands shall be published in only two newspapers, one printed in the English language and one in the Spanish language, at Manila, which shall be designated by said secretary of the interior."

SEC. 12. Section 8 of an act of Congress approved March 2, 1903, entitled "An act to establish a standard of value and to provide for a coinage system in the Philippine Islands," is hereby amended by striking out in the sixth line thereof the word "ten" and inserting the words therein "one thousand," so that the treasurer is authorized to receive deposits of standard silver coin and to issue silver certificates therefor in denominations of not less than two nor more than one thousand pesos under the conditions and restrictions of said section.

I think there was some intimation by the committee that possibly 1,000 pesos was too large.

MR. CRUMPACKER. I would not think so. It is the only paper currency.

Secretary TAFT. It is not exactly the only paper currency. There is a bank in the Philippines, known as the Spanish-Filipino Bank, which is acting under a charter allowing it to issue bank notes, I think, in a sum not exceeding 3,000,000 pesos.

The CHAIRMAN. Was the law question as to the power of the Commission to withdraw that charter ever settled?

Secretary TAFT. No, sir; but we have never had any doubt.

The CHAIRMAN. You have never had any doubt of the power of the Commission to rescind it?

Secretary TAFT. Yes, sir. We have been fired at by briefs, but we have the whip hand, and we do not recognize it as a vested right.

MR. CRUMPACKER. That bank has a charter to issue bank notes in excess of its capital?

Secretary TAFT. Yes, sir; three times, I think. They are disposed to be reasonable about it. They are in this uncomfortable situation: Under their charter they have no right to issue bank bills except for what are called hard dollars and those are either Mexican or Spanish dollars. We have forbidden by law the circulation of either, and therefore, if they would remain in business, they must have the privilege

of issuing notes in Philippine currency, so I do not think that Congress will be troubled by any question of that sort. I think that the settlement will ultimately come on the basis of their issuing a million pesos, which is their authorized capital.

Mr. CRUMPACKER. Are there any American banks in the Philippines?

Secretary TAFT. There have been two American banks, the Guaranty Trust Company, of New York, and the International Banking Company. The Guaranty Trust Company has withdrawn now, and the International Banking Company is the only American bank, except a so-called American bank, which has no corporate rights, and is doing a little business on \$30,000 capital.

The CHAIRMAN. The International Banking Company has a large capital?

Secretary TAFT. Yes, sir; I think it is \$6,000,000. I do not know whether its capital has been increased to \$10,000,000 or not.

Mr. WILLIAMS. Why did the Guaranty Trust Company withdraw? Is not that a good field?

Secretary TAFT. No, sir; the Oriental banking is a system of skinning the coon "gwine and comin'." They say the original rule, until we changed it by legislation in Manila, was that if a man deposited gold they would turn it into "Mex." at once and credit him with a deposit of Mex." Then he would come in and say, "I need part of that money for a gold payment," and having charged him with the exchange for transferring from gold into "Mex." they would charge him again for the exchange back from "Mex." into gold. So if he only kept that up seven times a day he would not have any account left. The Hongkong Bank issues notes in Shanghai and discounts them in Hongkong and discounts them at Manila—its own notes. Altogether, Oriental banking is a profession that I think justifies sufficiently the ruling which has been asked, that there are no accountants in the United States or anywhere else outside the ranks of the Oriental bankers that are skilled laborers within the meaning of the immigration laws.

Mr. CRUMPACKER. American bankers can not adapt themselves to the conditions?

Secretary TAFT. They have not yet. They are sending out now some college graduates, whose talents are said to be very well developed in that direction, to learn, and it is hoped that in the course of ten years we may get a corps of men who know how to run a bank in the Orient. They come into contact and competition with the Chinamen, who is no mean banker, as it is.

Perhaps I did not explain as fully as I ought to have done the status of the present railway in the Philippine Islands. I do not know whether I told the committee that under the contract with Spain there was a government guaranty of 8 per cent on \$5,000,000—that is, a government guaranty of income. The Attorney-General of the United States was consulted as to whether that guaranty bound the United States, the law officer of the War Department having previously passed on the question and found that it did not. The Attorney-General found that it did not bind the United States Government, that it was a personal obligation of the Crown of Spain, but there might be some sort of equitable obligation on the part of some of the provinces through which the road ran, due to the improvement in the value of

land, but it was of such a vague and incalculable nature that it did not seem to be much of an obligation one way or the other.

There was in the charter of the Manila railway a provision that at the end of one hundred years the railway should revert to the Spanish Government. The government of the Philippine Islands has always repudiated, and so have the authorities of the United States, any obligation to meet the guaranty of the Spanish Government. The company has claims against the United States, however, for the occupation of the railway. It took the railway and occupied it for nine months, and against the Government the company had a claim.

When I was out there as governor I talked with the manager of the company and suggested a compromise by which we should give them a perpetual franchise like the franchise already granted for the construction of railways without guaranties, and that we should agree to allow them on the franchises already granted the duties on the material put into the new branches on the one hand, and that they should release all claims against the United States on the other hand.

Mr. OLMSTED. Is that road a paying concern?

Secretary TAFT. Yes, sir; I think it is.

The CHAIRMAN. That is the railroad running from Manila to Dagupan?

Secretary TAFT. Yes, sir. I think it pays \$300,000 or \$400,000 a year net.

The CHAIRMAN. How many miles long is that railroad?

Secretary TAFT. They claim to have put into it \$8,000,000, but the \$8,000,000 or \$9,000,000 put in were far more than need to have been put in to construct the railroad. It is 120 miles long.

Mr. JONES. The guaranty was only on \$5,000,000?

Secretary TAFT. 8 per cent on \$5,000,000. Probably it could have been constructed for \$5,000,000 if they were not required to do many things necessary in a road of that character. The great cost is in finding the foundations for bridges.

They have to cross so many streams. In order to facilitate the terms which they are willing to make, Mr. Wayne McVeagh, who represents the company, has submitted to me a memorandum of a statement proposed by the present company by which the company agrees to convey all its interests to any American company which may receive franchises for other roads, either at a price to be agreed upon between them or by arbitration. The importance of the agreement is that the ownership of the road as it now is may interfere somewhat with the profits of an enterprise which might have in competition the line of the present Manila and Dagupan Railway.

I should be glad to enter into such a contract, so that when the Commission comes to allowing the concessions to any of the persons who may wish to take the concessions it may say to all of them, "Here, under this contract, is an opportunity to any of you to take over this line, and thus avoid the possibility of parallelism or interference with the profits of a railway that you may construct." I simply submit this memorandum with the other papers which I propose now to submit. I ask, inasmuch as these are personal communications to me, that they be not made a part of the record, except the memorandum of Mr. McVey.

Thereupon the committee proceeded to the consideration of executive business.



In the Senate of the United States. April 15, 1904, read **0 021 781 297 5** and in lieu of S. 5328, and ordered to be printed. April 27 (28), 1904, amended in Committee of the Whole; amendment by Mr. Foraker pending. December 7, 1904, ordered reprinted as amended in Committee of the Whole and with the pending amendment.

[Omit the part in brackets and insert the part printed in italics.]

AN ACT To amend an act approved July first, nineteen hundred and two, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," and to amend an act approved March eighth, nineteen hundred and two, entitled "An act temporarily to provide revenue for the Philippine Islands, and for other purposes," and to amend an act approved March second, nineteen hundred and three, entitled "An act to establish a standard of value and to provide for a coinage system in the Philippine Islands," and to provide for the more efficient administration of civil government in the Philippine Islands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That all bonds issued by the government of the Philippine Islands, or by its authority, shall be exempt from taxation by the Government of the United States, or by the government of the Philippine Islands or of any political or municipal subdivision thereof, or by any State, or by any county, municipality, or other municipal subdivision of any State or Territory of the United States, or by the District of Columbia, *and all the provisions of this section are hereby made applicable to Porto Rico.* [Amendment pending.]

SEC. 2. That for the purpose of providing funds to construct port and harbor works, bridge, roads, buildings for provincial and municipal schools, court-houses, penal institutions, and other public improvements for the development of the Philippine Islands by the general government thereof, the said government is authorized from time to time to incur indebtedness, borrow money, and to issue and sell therefor (at not less than par value in gold coin of the United States) registered or coupon bonds of such denominations and payable at such time or times, not later than forty years after the date of the approval of this act, as may be determined by said government, with interest thereon not to exceed four and one-half per centum per annum: *Provided*, That the entire indebtedness of said government created by the authority conferred by this section shall not exceed at any one time the sum of five million dollars: *And provided further*, That the law of said government creating the indebtedness and authorizing the issue of the bonds under this section shall be approved by the President of the United States.

SEC. 3. That section sixty-six of the act of Congress approved July first, nineteen hundred and two, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," is hereby amended to read as follows:

"Sec. 66. That for the purpose of providing funds to construct sewers, to furnish adequate sewer and drainage facilities, to secure a sufficient supply of water, and to provide all kinds of municipal betterments and improvements in municipalities, the government of the Philippine Islands, under such limitations, terms, and conditions as it may prescribe, with the consent and approval of the President of the United States, may authorize and enable, by appropriate legislation, any municipality of said islands to incur indebtedness, borrow money, and to issue and sell (at not less than par value in gold coin of the United States) registered or coupon bonds, in such amount and payable at such time as may be determined by the government of said islands, with interest thereon not to exceed five per centum per annum: *Provided*, That the entire indebtedness of any municipality shall not exceed five per centum of the assessed valuation of the [property] *real estate* in said municipality, and any obligation in excess of such limit shall be null and void."

SEC. 4. That for the purpose of aiding in the construction, equipment, operation, and maintenance of railroads, using steam, electricity, or other power, in the Philippine Islands, the general government thereof is authorized to guarantee an income of not exceeding five per centum upon cash capital actually invested in the construction and equipment of such railroads, or any part thereof, the guaranty to be in such form and under such provisions requiring repayment of any sum paid thereunder as said government shall deem to be to the public interest, and the act making the guaranty shall declare the proper rules for ascertaining clearly the cash capital actually invested in said railroads and the net income actually received on said capital so invested, and shall set forth the limit of invested capital to which said guaranty shall apply, and shall provide for supervision by said government of the conduct of the finances of the road and its location, construction, and maintenance, as well [as] by the presence in the board of directors of two or more government directors, the

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